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SEXUAL OFFENDING AND SENTENCING:

An investigation of the factors affecting sentencing decisions regarding perpetrators of sexual offences against children. In particular an investigation of the impact and usefulness clinical psychology reports have in judicial decisions about sentencing sexual offenders.

Kirsty
PAULA K. DUNCAN BSc (Hons)

**Submitted in partial fulfilment of the requirements for the degree of
*DOCTORATE OF CLINICAL PSYCHOLOGY***

**CLINICAL PSYCHOLOGY
SALOMONS CENTRE
ACCREDITED INSTITUTION OF THE OPEN UNIVERSITY**

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South Thames (Salomons) Clinical Psychology Training Scheme

**Research Dissertation submitted in partial fulfilment for the degree of
Doctor of Clinical Psychology.**

Open University

**An investigation of the factors affecting sentencing decisions regarding
perpetrators of sexual offences against children. In particular an
investigation of the impact and usefulness clinical psychology reports
have in judicial decisions about sentencing sexual offenders.**

Approximately 19 500 words excluding references and appendices

Paula K. Duncan

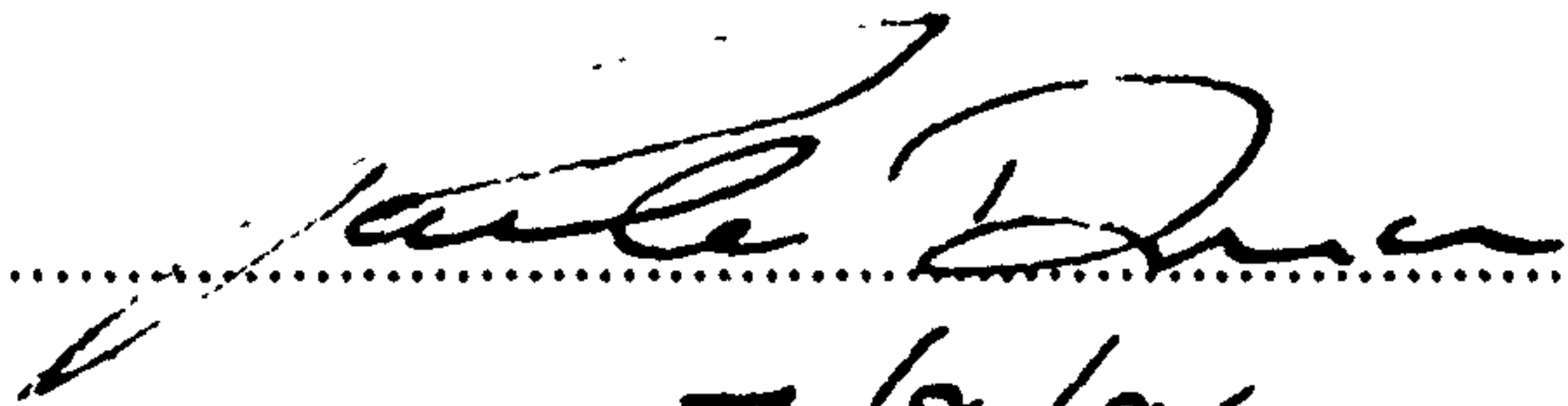
Supervised by :

- Jackie Craissatii, B.A.(Cantab.); M.A. Criminol; Dip Clin Psychol.
Head of forensic psychology services, Guy's and Bexley Hospitals.
- Dr Jan Burns
Assistant Director, South Thames (Salomons) Clinical Psychology Training
Scheme.

NB: Evidence is increasingly being gathered concerning the incidence and characteristics of female sexual offenders and their offences (O'Connor, 1987), nevertheless research continues to suggest that sexual offences are more commonly committed by men (O'Connor, 1987).. In view of this finding masculine pronouns will be used within this paper in relation to sexual offenders. Use of the masculine pronoun in this paper should generally be considered to refer also to the feminine.

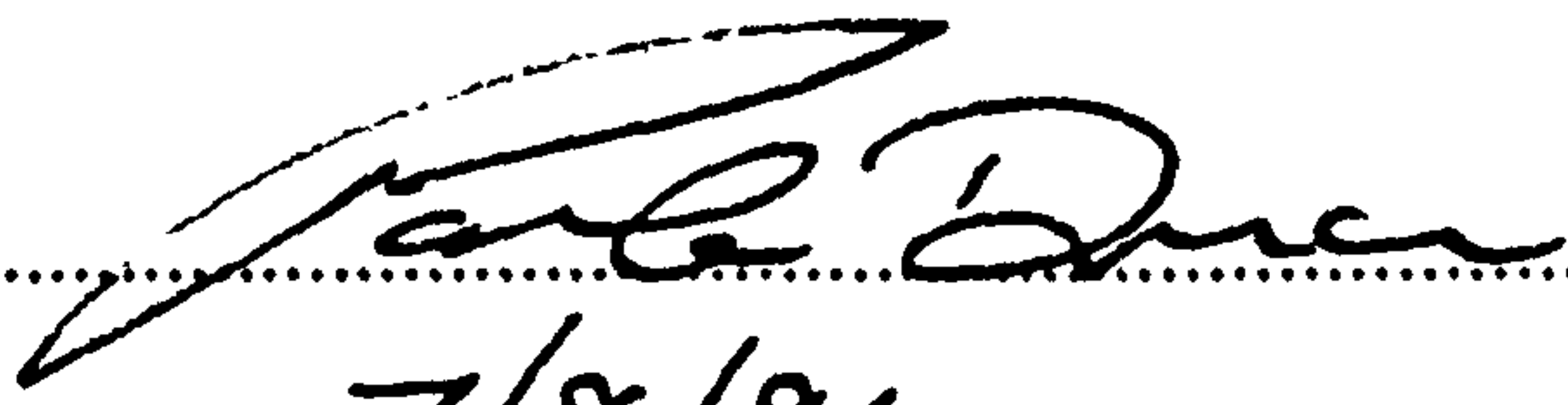
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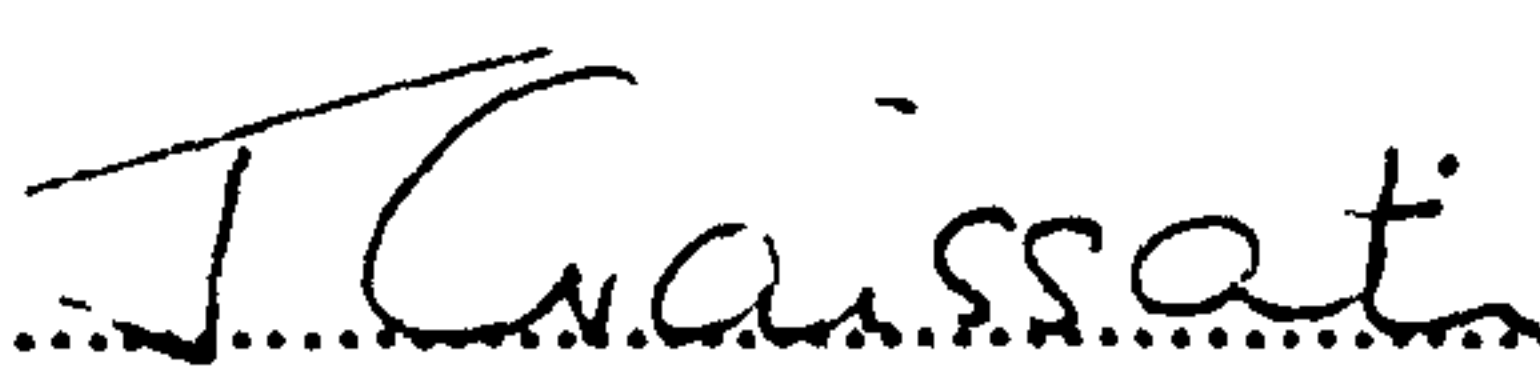
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STATEMENT 1

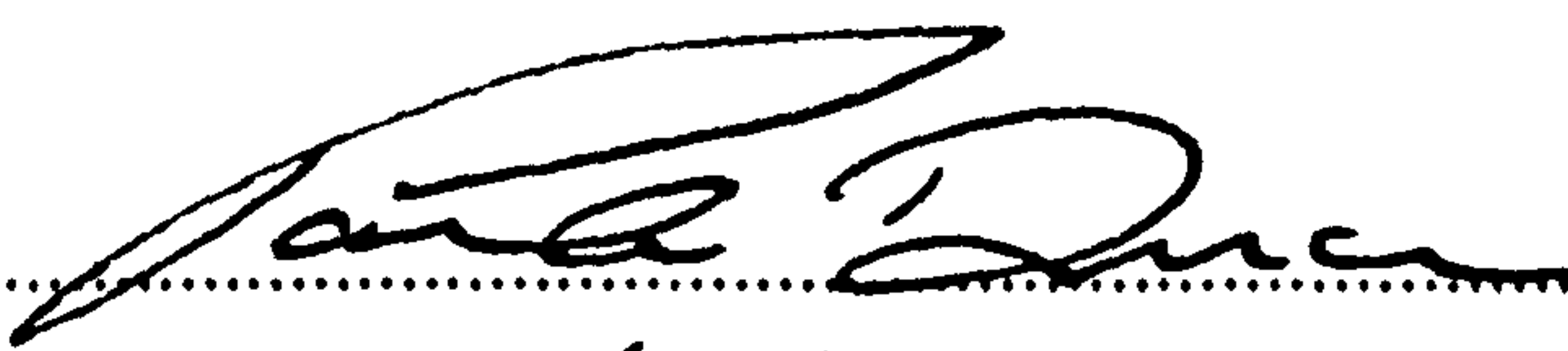
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For Sally and for Ali

1. Abstract

The sentencing of sexual offenders has become a national concern with public outcries about the injustice of the diversity of sentencing. Clinical Psychologists working in Forensic settings are increasingly involved in the treatment of child sexual offenders through consultation and therapeutic interventions in out-patient, residential and prison settings. Psychologists in these settings need to determine the characteristics of the sexual offender population they are likely to come in contact with in each of the different settings. This research aims to investigate a range of factors that impact and influence decisions about the sentencing of sexual offenders. A mixed methodological approach comprising case-file audit, qualitative interviews and statistical tests of association and prediction of variance was used to investigate the research area from different perspectives. A comprehensive profile of characteristics of child sexual offender's and their offences was obtained from audit data on 117 perpetrators of sexual offences against children. Statistical analysis of a number of these characteristics found that Psychological report recommendations were the most predictive of sentencing outcome when all other tested variables had been taken into account. The impact and influence of psychological reports in the sentencing process was further highlighted through interviews with Judges.

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2. Introduction

Professionals and the public have become increasingly concerned about the incidence and the effects of sexual offences (Field, 1978; Valliant, Furac, Antonowicz, 1994). Sexual offenders are commonly differentiated in research and literature according to the age of their victim, such that those who offend against adults are frequently referred to as 'rapists' (whether or not they actually rape their victims; Mair, 1993) and those whose victims are under 16 years of age are often referred to as 'child sexual offenders' or 'paedophiles' (whether or not their prime sexual orientation is towards children). Not only is public perception of offending typologies poorly differentiated, but their perception of the prevalence of childhood sexual abuse (CSA), the causes of such offending and of the treatment disposals (custody or community treatment) are tainted by materials available to them (press, culture, background, education).

Prevalence of Childhood sexual abuse

With regard to childhood sexual abuse (CSA); early British research found incidence rates suggesting that between 12 to 48 percent of women and approximately eight percent of men had experienced CSA (Baker and Duncan, 1985; Nash and West 1985). Higher incidence rates were reported from similar surveys of randomly selected adults in the United States (Russell, 1983). Figures estimating CSA prevalence have continued to increase (Karmen, 1990) to figures of 27 percent of women and sixteen percent of men (in the USA) having had at least one sexually abusive experience during their childhood. Such figures must always be considered with caution primarily because of the variety of definitions of CSA used in different studies and sampling biases with a lack of, or inadequate, control groups. What appears to be less controversial is the high rate of victims whose abuse fails to reach prosecution stage, or even to be reported. Champion (1988; U.S. research) cited

research estimating that 90 percent of incidents of CSA fell into this category. Data supporting this finding was based on perpetrators disclosure of offences for which they had not been charged and victims survey responses indicating that they had never disclosed their experiences of sexual victimisation.

Causes of sexual offending

The figures of child sexual offenders known to official services has similarly increased (Thornton and Hogue, 1991, British study) facilitating a plethora of research being undertaken (mainly in Canada and the U.S.A.), in an attempt to understand the motivation behind offending of this nature, centering on the question of whether child sexual abusers are mad, thereby requiring treatment (Fitzgerald, 1991; Card, 1991) or bad therefore requiring punishment (Valliant et al, 1994). Debates about the underlying causes of CSA have been found to underpin the opinions of the public (Valliant et al, 1994) and those within the Criminal Justice system (Field, 1978; Davis, Severy, Kraus and Whitaker, 1993) about the most appropriate means of sentencing offenders found guilty of crimes of CSA.

Knowledge and the generation of myths about sexual offending patterns

Research investigating the reality of people's knowledge about rape using the 'Rape Knowledge¹ Test' (Field, 1978) indicated that participants from the general public, police and rapist samples had remarkably consistent responses, attitudes towards and beliefs about rape and rapists but scored only just above chance. It is plausible to suggest that a similar pattern might be expected to be found regarding CSA. Research based typologies of child sexual offenders have made distinctions between perpetrators who offend against children within, or outside of, their families (Russell, 1983) and Groth, Hobson and Gary (1982) proposed a distinction between what they termed 'fixated' or 'regressed' sexual offenders. Fixated offenders were those whose offences indicated a primary and fixed erotic interest in children

¹ Measure devised using a range of independent sources of statistical data regarding 14 items of information about rape (e.g. the frequency of incidents, mode location)

(fixated: mainly offend against boys) as opposed to regressed individuals whose profile indicated a primary sexual interest in their peers with episodic offences against children (usually females) often associated with periods of stress. These models have been superseded by Knight and Prentky's (1990) differential typology of child sexual offenders on the basis of an association between the degree of fixation on children and level of social competence (Axis 1) and strong associations between the choice and control over contact with children, the offender's interpretation of his contact with children and the degree of physical force and sadistic behaviours characteristic of their offending (Axis 2; Craissati, 1996). Thus sexual offender subtypes cannot be differentiated simply by their behavioural pattern of offending but by a combination of the psychodynamic, and cognitive factors underlying their behaviour.

The stereotypical image of a sexual offender is more characteristic of the fixated homosexually oriented paedophile combined with stereotypes of abnormality such as inadequate social competencies, isolation and aggression. Misperceptions about the nature and frequency of crimes are heavily influenced by the frequency and explicitness of media depictions of crime (Gebotys, Roberts and DasGupta, 1988). They argue that news media coverage focuses on the most sensational (extreme or unusual) crimes thus colouring the public's image of different types of crime. For example, Doob (1985) found that over fifty percent of crime stories in a selection of newspapers involved violence. This contrasted sharply with the actual crime statistics for the same period which showed that only six percent of the crimes committed contained elements of violence. Similar figures have been found internationally (Gebotys et al, 1988). This distortion of crime rates and seriousness influence public attitudes towards perpetrators and public opinion about appropriate punishments. Gebotys et al (1988) further suggested that the media contributed to dissatisfaction with sentencing patterns by reporting on those sentences at the extreme of sentencing trends thus promoting public perceptions of

sentence diversity and pressure for uniformity. The reality of the most commonly found characteristics of detected child sexual offenders is far from the media stereotype. Card (1991) amongst other researchers purported that most sexual offenders were not violent or predatory individuals but were likely to have roles as respected community leaders, trusted fathers, relatives or friends of the family within which they committed their offences.

Strength of feelings aroused by crimes of sexual offending

What cannot be disputed is the disdain and fear associated with and generated by offending of this nature. Reader's comments in The Times (26th May 1996) regarding an article about the sentencing of two paedophiles stated "they should have been hanged"... "had their genitals removed by trainee vets". Desroches (1978), having investigated this area, asserted that "sex offenders are the most despised of all criminals and that among sex offenders, none are more despised than homosexual² child molesters". McCaghy's (1967) study of incarcerated child molesters also found this view to be held such that the prisoners tended to dissociate from their own offences and reacted against being held with such people. In support of this, Walsh (1994) found, using Logistic Regression analysis, that homosexual offences were almost seven times more likely to result in custodial sentences than heterosexual offences, after controlling for such variables as seriousness³ of the crime, the offenders previous history of offending and their admission of responsibility.

2. The perpetrator may not be primarily homosexual in orientation. Walsh's study was concerned with offenders convicted of sexual acts with same sex children.

³ Gebotys, Roberts & DasGupta (1988) found a high consensus between public perceptions of crime seriousness and media presentations of seriousness. The perceptions of seriousness correlated with legal definitions of crimes and took into account the acts committed and the circumstances in which they were committed. This finding is generally consistent within national populations (Wellford & Wiatrowski, 1975).

Is treatment available?

Only a minority of detected sexual offenders could be classified as having a psychiatric disorder as classified by DSM III-R (APA 1987). FitzGerald (1991) argued, however, that almost all forms of compulsive antisocial sexual behaviour could be deemed to require treatment, even in the minimal form of developing an understanding of why the act was committed. Treatment programmes have been developed within prison, community residential and community out-patient settings with the collective aim of reducing the likely risk of reoffending (Thornton and Hogue; 1993). Their efficacy continues to be debated and researched (Card, 1991, Craissati and McClurg, 1995). Intervention is often the only means of interrupting a pattern of sexual offending and providing an introduction to the concept, and opportunity for, treatment. Decisions about sentencing disposal are to some extent defined by the legal definition of the offences (Criminal Justice and Public Order Act, 1994) and Court of Appeal guidelines and precedence regarding sentencing (HMSO, 1987) but growing public dissatisfaction with the diversity of sentencing (Hough and Moxon, 1985) reflects suggestions made by Field (1979) and Davis et al (1993) that the sentencing of sexual offences may be more influenced by Judge's personal beliefs and attitudes than other types of crime. In view of (or perhaps in parallel with) public concern the Government is currently proposing to introduce minimum sentences for specific crimes, including the introduction of indeterminate (life) sentences for offenders convicted twice of rape. This White Paper is expected to be introduced as a Bill in Autumn 1996 and its proposals have initiated heated debates about the prospect and implications of mandatory sentences (The Times 24/5/96; 25/5/96). Those pro mandatory sentencing suggest that debate is more about the autonomy of the judiciary than the revulsion towards sexual offenders, those against it propose that "Sentencing is a craft not a computation...each criminal needs to be judged on his demerits and not be left vulnerable to some crude tariff" (Lord Justice Taylor, The Times 25/5/96).

The general purpose and implications of this study

This study aimed to investigate the reality of claims that sentences for sexual offenders were inconsistent. Using real examples of cases of child sexual offence the researcher investigated profiles of such offenders to determine which characteristics were associated with a particular sentencing disposal and to determine those that might be predictive of a particular outcome. In addition this study aimed to investigate factors that Judges recognised as influencing their sentencing decisions. The implications of developing a profile of characteristics of detected sexual offender populations that may be anticipated to access services in different settings is important in helping treatment service providers to allocate scarce resources in the most efficient and effective way in order to reduce the potential for detected sexual offenders reoffending. Three contributory factors were identified as characterising the problem under investigation; differences in the typologies of sexual offenders; the belief systems and standards imposed by legal professions that are applied by Judges when making sentencing decisions and the ability of the psychologists, involved in the assessment of such offenders, to analyse the offender and communicate their clinical judgements clearly within a legal context.

Characteristics of detected sexual offenders

Dwyer and Amberson (1989) hypothesised that all sexual offenders had common characteristics regardless of the nature of their sexual crime. They based their hypothesis on ten years work treating sexual offenders convicted of contact and non-contact offences against children in Minnesota, USA. Their study involved in-depth assessment batteries (eight hour long clinical interviews; ten psychometric tests, completed by the perpetrator and their partner (if applicable) and use of penile plethysmographs) with 56 convicted sexual offenders who were deemed safe enough to receive out-patient treatment. The assessments were carried out prior to the onset of any treatment interventions. Their mean age was 39 (range 20-82). The mean age of Jackson and Thomas-Peter's (1994) participant sample of 41 sexual offenders in a

group treatment programme was 42 years (range 20-72). Mair (1993) found that incest offenders were often older at conviction than other sexual offenders, perhaps because of the often longer duration of their offences or because they were often not reported until many years after their abuse on the index victim(s) had ceased. A high percentage were married (61 percent). The range of offences committed was as follows; 41 percent had indecently assaulted victims outside their biological family, 40 percent had committed incest offences, six percent had indecently exposed themselves, five percent were convicted of rape, three percent of voyeurism and three percent of other sexual crimes. Abel, Mittleman and Becker (1985)'s investigation of a similar population showed a ratio of 85:15 contact to non contact sexual offences against children. Jackson and Thomas-Peter's participant sample included 12 percent incest offenders, and five percent of offenders convicted of rape. The ethnic make-up of Dwyer and Amberson's study consisted of 95 percent Caucasians. Their education levels broke down in the following way; 11 percent had left school without qualifications, 32 percent with limited achievements, twelve percent had achieved a vocational training, 20 percent had O' level equivalence sixteen percent A' level equivalence and nine percent were University graduates.

Dwyer and Amberson (1989) ascertained that seventy percent of their participants had clusters of eleven of the following patterns and characteristics (83 percent had clusters of eight); experience of early sexualised trauma at approximately age four (40percent); absent fathers or poor paternal relationships (83percent); victim of CSA⁴ (36percent); overprotective mothers and/or formed relationships with overprotective women (83percent); presented as passive (88percent); exhibited low self-esteem and high self-criticism (98percent); Displayed immature social (59percent) and/or sexual skills (94percent); invoked obsessive religious codes to justify repression of normal sexual behaviours in favour of their abnormal sexual behaviours (26percent); Denial

⁴ Dwyer and Anderson reported that this figure is likely to be an underestimate reflecting the fact that responses were gathered prior to the onset of treatment and men often refuse to admit to having been sexually victimised for fear of being labelled homosexual. The researchers experience suggested that patients frequently recall and disclose CSA during treatment resulting in an anticipated figure of approximately eighty percent..

of responsibility for their sexual offences (93percent); Dissociation from the sexual crimes (84percent spoke as though someone else had done it); exhibition of an over-controlled pattern of anger (76percent); exceptional skills at manipulating others (93percent had successfully carried-off a dual lifestyle, concealing their sexual acting-out); used excessive repression of sexual thoughts as a coping mechanism (74percent) and have a major disdain for sexual offenders (93percent). Dwyer and Amberson hypothesised that people without sexual paraphilia interests may have a few of the aforementioned patterns and characteristics but not to the same extent. Their study failed to recruit a control group so this hypothesis remains speculative.

Traver's (1978) study investigated the case characteristics of 268 CSA offenders. Only 14 percent were accused of using force to facilitate victim compliance, this compared to no physical force being used by the 56 participants in Dwyer and Amberson's study and 49 percent of incidents reported by the participants in Walsh's (1994) study. Virkkunen (1975) found that 48 percent of his sample of child victims had complied in exchange for money or other favours, the figure for similar coercion was 56 percent in Walsh's (1994) study. Often a number of different ways of ensuring compliance and secrecy are used within one offence cycle and the definitions used to ascertain such variables differ across studies. It is generally accepted that compliance can be gained from child victims in a number of ways involving the 'innate' power of adults, bribery, verbal and non verbal threats and carefully planned grooming techniques, that do not necessitate the use of physical force.

Factors influencing Judge's sentencing decisions

Judges sentencing those found guilty of sexual crimes have one basic decision to make, the choice between a community or custodial sentence, each of which may incorporate a treatment component. It could be argued that the length of time or sentencing conditions/requirements attached to the sentence beyond the

fundamental decision regarding community or custody has a less significant impact on the offender, the victim and their respective families, than the choice of disposal. HMSO (1987) describes three purposes of sentencing: retribution, deterrent and protection of the public. FitzGerald (1991) differentiated only two purposes incumbent of sentencing decisions those of rehabilitation (often the main aim of community disposals) and retribution (associated primarily with imprisonment). FitzGerald (1991) found that the punitive approach has increasingly taken precedence since the 1970's regarding the sentencing of sexual offenders. Valliant et al (1994) found that lack of information and ignorance of the criminal justice system were key factors correlated with negative attitudes and greater demand for retribution. However, FitzGerald (1991) suggested the trend reflected Court of Appeal guidelines (1982) effectively mandating lengthy prison sentences for offences of rape, buggery, incest and indecent assault. Galegher and Carroll (1983) nevertheless highlighted the fact that sentencing guidelines failed to reduce sentencing diversity with regard to a range of crimes. Reliance on the legal definitions of crime often does not provide a good indication of the actual events that took place within an offence, for example some sexually motivated attacks may result in convictions for a 'breach of the peace' 'assault' (sexual or violent) or 'murder'. The practice of plea bargaining⁵, further reduces the reliance one can reasonably place on comparison between legal categories of sexual offences (Mair, 1993).

Craissati (1994) investigated the characteristics of forty sexual offenders who had received community treatment orders. She suggested five categories of data that had been influential to the Judges sentencing decisions in those cases: offender characteristics; offence characteristics; victim characteristics; the pre-trial process involving the Crown Prosecution Service and concerns for retribution and punishment. Court of appeal guidelines broadly regulate appropriate sentences for

⁵ Pleading guilty to a charge legally viewed as less serious and thus likely to receive a less severe punishment. This practice often enables a conviction to proceed without the need for a lengthy trial and the presence of (often vulnerable) victims.

specific legally defined crimes. For each crime there is a sentencing range (Thomas, 1982). Circumstances of particular crime incidents may aggravate or mitigate the punishment. The court of Appeal has guidelines to help judges assess the pertinence of such factors. "The criminal justice system contains within it some means for allowing offenders to negotiate some of the consequences of conviction....the deviant is not an entirely passive or reactive participant in the labelling process" (Traver, 1978). Mitigating factors for crimes, especially of a sexual nature, may often be increased during the legal process following the offence being discovered. Such factors include admission of guilt for committing the acts; acknowledging responsibility for the acts and efforts to reduce further damage to the victim. In addition it is in his interest to provide an explanation for his behaviour or to acknowledge that he has a problem which requires treatment in order to convince the court that his offence will not be repeated and that he is remorseful for what he did. The courts tendency to favour custodial sentences for perpetrators who fail to acknowledge their part in an offence would be supported by Marshall and Barbaree's (1988) finding that those who deny accusations of child molestation exhibit higher rates of re-offending than do those perpetrators, treated or untreated, who admitted guilt, to at least some degree, for their crime(s).

Davis et al (1993) used a questionnaire design based on previous research by Carroll, Perkowitz, Lurigio and Weaver (1987) to investigate the beliefs, personality variables and demographic characteristics of different professionals working in the U.S. juvenile justice system. They found three patterns of characteristics defined their participant's sentencing opinions: liberal, somewhat conservative and traditionally conservative. The liberal group had a firm belief in sentences being used to provide rehabilitation, they believed that most crimes were the result of external factors (such as unemployment) and the sentences they suggested for vignettes of a range of crimes were moderate. At the other sentencing extreme were the traditionally conservative group. These participants tended to believe that crime was a factor

attributable to characteristics of the individual, they did not believe that offending patterns were treatable and rated the crimes presented in the vignettes as more serious than did the other two groups. As a consequence their sentencing prescriptions were most punitive. The conservative group also took a punitive stance and believed in an internal causality for crime but their sentences were less severe and treatment considerations were sometimes evident. These diverse splits in thinking about sentencing have huge implications for the processing of individual offender's cases. The component attributes and beliefs of the three sentencing patterns were consistent with Carroll et al's (1987) framework for predicting variation in sentencer's decisions according to penal philosophies (punishment - rehabilitation), perceived locus of control in relation to crimes (internal - external), ideology of the decision-maker (Conservative - Liberal) and the sentencer's personality characteristics. In criticism of Davis et al's (1993) study, only six percent of their sample were judges and the diversity of their beliefs and attitudes were not differentiated. Using cluster and factor analysis of fourteen variables thought to be related to predicting sentencing decisions, Davis et al, found three specific crime variables which were highly correlated with sentencing decisions; these were, perceptions of crime seriousness, degree of harm caused to the victim and treatment prognosis regarding the offender. In addition they found that crimes that were deemed to be "very serious" (e.g. gang rape) or "serious" (e.g. rape of one's sister) were sensitive to a greater range of individual personality and demographic variables than "less serious" (e.g. theft) offences.

Carroll et al (1987) suggested that all judges could justify their sentences by focusing on different aspects of the information before them, using confirmatory bias. For example, Hogarth (1971) suggested that judges favouring rehabilitation place greater emphasis on the recommendations of probation Officers, evidence of pathology in the offender's background and any evidence of his remorsefulness and motivation for change. The converse weighting may be anticipated of judges favouring

punishment and protection of the public, for whom the circumstances of the offence rather than the offender would be deemed most important. The largest weighting within psychological reports is on the offender, presenting his unique history and a formulation to understand what led him to commit the offence in the given circumstances. Research could usefully be undertaken to determine whether there is a bias in the type of judge who might request a psychological report to aid them in determining the most appropriate sentence. Greenland (1984) stated that many Canadian judges asserted that it was their "moral obligation to improve rather than harm offenders by imprisonment". This could be taken to justify custodial sentences as a deterrent to future offending, custodial sentences which incorporate a treatment component or community sentences.

Influences from other Professions

The judges are aided in their decision-making process in cases of child sexual abuse, by pre-sentence reports prepared by Probation Officers. In addition reports may be requested from Clinical psychologists and Psychiatrists, often based in forensic services. These reports are usually requested by probation officers, judges or solicitors but may be requested by other interested professionals such as staff at bail hostels. In addition to any specific reasons for requesting reports the main function of all the reports are to provide a detailed picture of the offenders background, to provide an explanation of why the offence occurred, to assess any mitigating or aggravating circumstances, to assess the likely risk of re-offending and when possible to provide clearly argued recommendations for the offender's disposal. The emphasis in the different professions reports would relate to relevant social, and economic factors and previous offending history (Probation); assessment of mental state, psychological understanding of the offence in view of psychosexual and personal history and an assessment of the offenders likelihood of benefiting from a psychological intervention to address his offending behaviour (Clinical Psychology) and assessment of mental state, medical and organic conditions (Psychiatry).

A report undertaken for the State of California (1965; cited by Traver, 1978) found that probation officers reports were highly influential in sentencing practice. Over a ten year period judges were found to have followed probation officers recommendations for disposal via a probation order 95 percent of the time. The importance of the perpetrator's period of probation assessment was highlighted by the finding that those receiving favourable recommendations from their assessment officer stood a 93 percent chance of being sentenced to probation. This contrasted with a 40 percent chance of receiving probation following unfavourable recommendations. The most common reasons for not recommending a probation disposal were concerns about the perpetrator's mental health, use of force within the offence and offences which had resulted in the victim becoming pregnant. These factors are consistent with the aforementioned Court of Appeals guidelines about aggravating circumstances. Traver's research found that psychiatrist's opinions, though less frequently available, exercised similar influences, as that of probation officers, on the court, a finding supported by Williams, Dixen, Calhoun and Moss (1982) in relation to psychological reports used in American and European court cases.

Psychologist's ability to analyse the offender and to clearly communicate their judgements within a legal context.

Gudjonsson (1996a) undertook a survey of member's of the British Psychological Society and found that there was increasing demand for psychological reports to be prepared for court and for psychologists to testify in courts as expert witnesses. 97 percent of the psychologists who participated in this study claimed that the courts had received their evidence favourably.

Punishment for sexual offences against children is required by law. Mair (1993) broke sexual offending down into two main component factors, criminality and

psychosexual difficulties. Clinical Psychologists in Forensic settings must ensure that the significance of each of these variables can be assessed and appropriately weighted in each individual's case. Traver (1978) highlighted that the more a person's behaviour departs from that which is socially acceptable the harder it is for them to find ways of understanding and explaining their behaviour (to themselves and others). Perhaps this explains why so many CSA perpetrators resort to explanations involving mutual or whole responsibility to others (often the victim or the offender's spouse etc.), uncontrollable inner impulses or mental aberrations. Traver further highlights the dilemma the offender has regarding acceptance of his responsibility for his crime, on the one hand full acceptance of responsibility may increase his chances of a community based sentence or a more lenient custodial term, on the other acknowledgement of sole responsibility for socially deviant behaviours and impulses, which he is likely to consider extremely aversive in others, presents a threat to the offender's self identity as 'normal'.

Assessment of a number of other offence-related factors in terms of their mitigating or aggravating influences are left to the discretion of the decision-makers, from the various professions, involved in cases of CSA. Walsh (1994) highlighted the influence of the relationship between the offender and victim suggesting that assaults from strangers were treated more harshly than similar acts from a known perpetrator. Yet the relationship influence is not a straightforward one and incestuous offences are frequently considered to result in greater psychological damage to victims than abuse from other perpetrators (Gomes-Schwartz, Horowitz and Cardarelli, 1988). The individual circumstances comprising the offence are of course vital because incest offences are usually of longer duration and progress to more invasive sexual acts, whilst stranger attacks are more likely to involve use of force. Use of bribery to facilitate victim compliance may be presented as eliciting victim consent or at least mutual blameworthiness and is a frequently found component of CSA incidents regardless of the victim-offender relationship.

Traver's (1978) study considered 268 CSA cases which came before the Superior Courts in Los Angeles between 1956-1966, to ascertain the influencing factors relating to sentencing to custody or probation. He suggested that perpetrators who were from lower social classes, who were unable or unwilling to talk about their inner feelings or to recognise any links between their emotional state and past or current experiences, with their offending behaviour, were least likely to be deemed suitable for a psychological intervention or for a probation order which necessarily requires them to verbally work on their offending pattern. Instead they were more likely to have external controls placed on their offending behaviour via imprisonment or medication under a psychiatric order.

The use of psychological models in treatment recommendations and programme planning

Studies such as that by Dwyer and Anderson (1989) have been used to develop focused treatment programmes for sexual offenders aimed at altering and/or reducing many of the patterns identified. Some divisions within sexual offender typologies are reflected in sentencing such that offenders targeting adults are more likely to get a custodial sentence while offenders targeting children are more likely to be considered for a community treatment option. Mair (1993) presented evidence suggesting that a more useful division, for the purposes of treatment aims, would relate to the characteristics of the acts committed. Work by Bard, Carter, Cerce, Knight, Rosenberg and Schneider, (1987) indicates that these two methods of classification may in fact overlap to a substantial degree since they found that legally defined rape⁶ offences are twice as common as non-rape sexual offences against adults yet non-rape sexual offences are twice as common as rape offences where the victim is a child. This may also explain the prevalence of rapists receiving custodial sentences rather than a community option, since those who are found guilty of

⁶ Penetration of the vagina, by a penis, without consent or recklessness as to whether the victim was consenting.

raping child victims are also more likely to receive a custodial sentence than child sex offenders whose crime does not involve rape (legally defined). Mair (1993) found higher sexual offending recidivism rates amongst non-rapists the majority of whom solely offended against children.

Aims of treatment in different settings

Treatment for sexual offenders is aimed at helping them to take greater responsibility for their actions by facilitating the individuals to understand their own motives for offending and thus to help them to recognise high risk circumstances and to develop alternative means of managing the situation without recourse to CSA. Those who take a purely punitive approach to such offenders believe that treatment is a 'soft' and probably ineffective sentencing option. Yet the prime aim of all sex offender treatment programs is to prevent, or at least reduce further victimisation of children. Without treatment sex offenders are not likely to develop any internal control to break their cycle of offending, and conversely through the cognitive and behavioural processes of rationalisation and reinforcement the offender is more likely to increase his incidence of offending. Card (1991, pg. 13), who advocates expansion of voluntary community treatment programmes, quoted a Utah attorney generals view that "the majority of child abusers incarcerated at the prison were so non-threatening and compliant that you could ask them to stand in a corner for as long as desired and they would not even dare ask why" , he suggested that the only reason such people were in custody was to appease public demand.

Treatment in prison

The Criminal Justice Act (1991) recommended that all sex offenders who receive a custodial sentence exceeding three years should be assessed for and offered the opportunity of undertaking a treatment programme to address their offending behaviour, whilst they are incarcerated. Treatment in such settings has been heavily criticised and its therapeutic benefits questioned on the grounds that those providing

the treatment are likely to be part of the system restricting the individual which raises issues of safety and confidentiality. Programs within prisons may offer an escape from the routine or boredom of prison life whilst also offering an opportunity to demonstrate 'good behaviour' which may reap benefits in terms of early release and/or parole. (Thornton and Hogue, 1993). Card (1991, pg. 18) took a more extreme view suggesting that treatment programmes linked with punishment were antitherapeutic "driving the sexual problem deeper inside the offender...[who]...learns to comply at a surface level to get out of the oppressive system, and we release him back into society partially or poorly treated, angry, frustrated and still a threat to children". Prison without treatment fails to highlight to sexual offenders that they have a problem thus offenders may be less likely to accept offers of treatment post-sentence because they consider themselves to have 'done their time'. Further problems with custody alone are that prisoners are released without follow-up supervision or with supervision limited to a parole period.

Treatment in the community

Community treatment programmes for sexual offenders have developed nationally over the past two decades. These programmes are often run by a combination of Probation, Clinical Psychology (Forensic) and Social services professionals. The likelihood of a sex offender receiving a supervised community order with a condition to attend a sex offender treatment programme, as an alternative to custody, is dependent on a number of factors. Most important is their assessment of dangerousness and risk of re-offending. Orders may specify a place of residence and strict conditions to prevent (or limit) the perpetrator having contact with any past or potential victims. In addition the offender's capacity to accept that he has a problem and his agreement and motivation to work on his past (and future potential for) sexual offending are often vital considerations. Jackson and Thomas-Peter (1994) investigated the propensity of denial reported by perpetrators of CSA and

found a spectrum of minimisation techniques which fell into two main categories: denial of the practical aspects of the offence (for example, fantasising, the difficulty of changing abusive behaviour) and denial related to lack of an internal conscience (for example, minimising their responsibility for their actions, denial of the long and short term effects on the victim and denial of guilt frequently by presenting themselves as the victim in the offence). It is not uncommon for sexual offenders to plead guilty to lesser offences, than the original charges, shortly before their trial proceeds. Reasons given for late admissions are frequently stated as being out of consideration for the victim, who need not appear in court when a guilty plea has been lodged. This process may also be regarded as mitigating grounds for a reduction in sentence severity and may encourage Judges to be more favourably disposed towards a community option. Denial in its many forms of cognitive distortions, rationalisations, and excuses for offending, is thus a critical aspect of all work with sexual offenders, even for those who acknowledged guilt at some point within their legal proceedings.

Is treatment effective ?

Cox (1996), Executive Officer at the Home Office responsible for development of the Core treatment programme in British prisons, stated that on average there were 600 sexual offenders within prison in any one year. This differs with estimates of over 2000 annually stated in Thornton and Hogue's research (1993). The lower Home Office figures may reflect numbers of convicted perpetrators suitable for attendance on the core sex offender treatment programme (SOTP) in view of the length of their sentence. In 1995 406 sexual offenders completed the prison core Sex offender treatment programme (SOTP). Findings from Thornton and Hogue (1993) on the efficacy of such programmes are inconclusive.

A limited number of residential community treatment facilities are available for sexual offenders. Research into their efficacy is under way (Becket, Beech, Fisher and Fordham, 1994)

Maletzky (1990; 1991) followed up approximately 3000 sexual offenders who had received community treatment over a fourteen year period. Basing criteria for successful rehabilitation on no evidence of reoffending, he found that 94 percent of CSA perpetrators of female victims; 86 percent of CSA perpetrators of male victims and 76 percent of CSA perpetrators who offended against both boys and girls were successfully treated.

The Challenge Project which is an ongoing study of a community SOTP in South London indicated a few significant positive treatment effects for the group overall and a number of positive changes regarding specific individuals (Craissati and McClurg, 1995). The most significant effect was an increase in the perpetrators' accountability for their behaviour. Overall the mixed pattern of responses over the battery of test material used for assessment confirms the inconclusive findings from previous research. Although no control group could be obtained for the Challenge project there was a miscellaneous group condition of perpetrators who had been initially assessed but who had not received treatment. All but one of those in the miscellaneous group were unable to be located for one year follow-up indicating the difficulties in keeping track of recidivism rates and monitoring the safety of the perpetrator and potential victims post-custodial release.

Summary

It seems appropriate, and research supports this view (Davis et al, 1993), that perceptions of different types of crime would be influenced by different attitudes and beliefs as well as the gender, age, ethnicity, class and other demographic variables unique to each individual. However there may be limited variation in

certain of the demographic factors within certain ranks of different professions, for example judges. Hogarth (1971) found that judges tended to assume that their sentencing views were consistent with the majority of their judicial colleagues, thus those favouring rehabilitation for offenders believed this to be the case for most other judges and likewise for the beliefs of judges favouring punitive sentences. Clearly this cannot be assumed.

Research aims and design of this study

The aim of this study was to investigate the factors influencing and predicting the sentencing outcome regarding sexual offenders with particular consideration paid to exploration of the impact and influence that psychological reports may have on the sentencing process. Literature suggested a number of factors influencing sentencing decisions from legal and personal perspectives. Research by Craissati (1994) suggested five categories relevant to cases of CSA which may be influential to the sentencing of such cases. The researcher aimed to combine information from each of these different perspectives on sentencing to explore the issues of sentencing in greater depth than had been done previously.

The specific aims of the study were;

- To develop a descriptive profile of characteristics of sexual offenders and their offences with regard to Craissati's (1994) categories of variables relevant to sentencing.
- To explore the relationships between the characteristics of sexual offenders and their offences and sentencing outcome.

- To explore the factors which Judges recognise as influencing their decisions about sentencing sexual offenders.
- To explore the impact and usefulness of pre-sentence psychological assessment reports on judicial decisions regarding the sentencing of sexual offenders, and to find out how such reports could be improved.

The first stage of the design involved audit of information held in the case-files of a large number of sexual offenders, all of whom had been referred to the Forensic Service for assessment regarding their suitability for treatment. Data collection from the case-files involved quantitative categorisation of material held within legal depositions and clinical material (see appendix 1 for vignettes of material held in case-files, selected from those files in which judicial sentencing comments had been recorded). It was envisaged that this would provide information about patterns of sentencing decisions that had been made regarding sexual offenders, within a selected locality, within a four year period. Selected variables from the developed data base would then be statistically analysed to uncover relationships between particular variables and sentencing outcome.

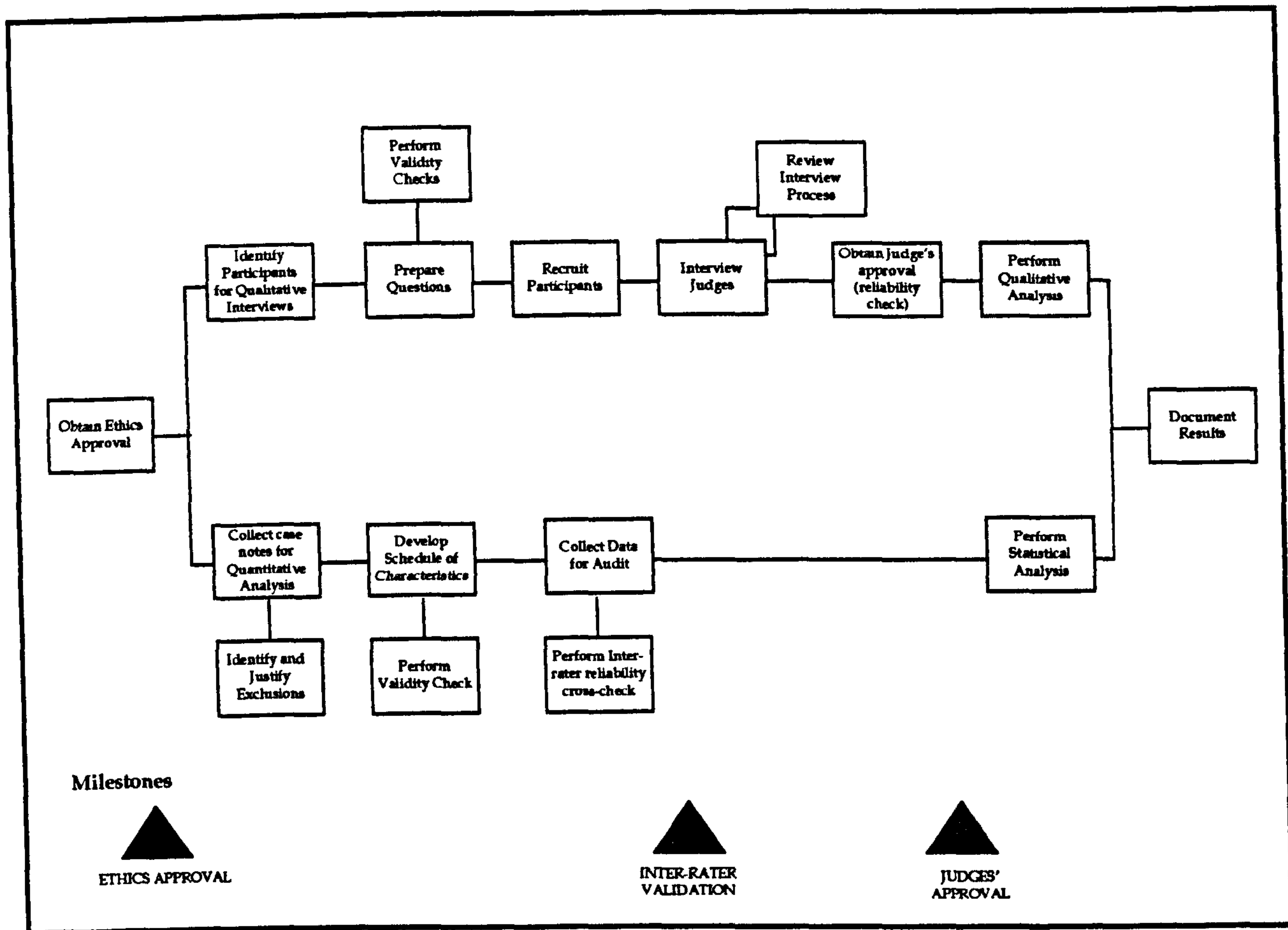
In response to literature and media claims about sentencing diversity amongst Judges the researcher decided to undertake qualitative interviews with Judges, using the grounded theory approach to develop emerging themes deemed relevant to the participants. It was anticipated that this approach would enable in-depth exploration of (selected) Judges models of sentencing and attitudes and beliefs about

sexual offending. Using triangulation the researcher anticipated that each of the methods of data collection would generate overlapping material but from different perspectives thus providing a well rounded approach to the area under investigation.

The common factor, regarding material held in the case-files, was the report of the psychological assessment for which the perpetrator had been referred. Part of the audit data collection would involve use of the report and it was anticipated that there would be a relationship between the recommendations in the report and the perpetrators sentencing disposal. The usefulness of these reports on a more practical level would be assessed within the qualitative interviews with the Judges, the audience to whom such reports are aimed.

3. Method

Diagram 1: Summary of Method



3.1 Participants for the audit study (sex offenders)

Participants of the audit study were all the people referred to a South East London Forensic Psychology Service between, April 1992-April 1996, for assessment of their suitability for a sex offender treatment programme. The mode age of those referred was fifty (Table 1) and the mode referral agents were Probation Officers (Table 2). A close working relationship between the Forensic Psychology service and other professionals within the Criminal Justice System locally, since 1993, had resulted in defendants from all cases of child sexual abuse being referred to the service for assessment, unless the defendant was adamantly denying the offences. All the sex

offenders referred to the department during this period were male and most were of British/European ethnic origin (Table 3). Many of the referrals were undertaken while legal proceedings against the person referred were underway, either at the stage of sentencing or parole decisions (Table 4). Psychology case notes, including legal depositions and witness statements, were used to collect data relevant to one hundred variables (see section 3.3 for development) relating to the five following categories (adapted from Craissati, 1994); the offender, the offence(s), the victim(s), the legal process and psychological factors pertinent to decisions about treatability. Permission to use the client files was obtained from the Head of the Forensic Clinical Psychology Service and from the Service's Research Group (Appendix 2). Ethical approval for the whole study was obtained from the Salomon's Research Ethics Committee (Appendix 3).

Tables 1-4: Summary demographic details of the sex offender referrals to the department (N= 119)

Table 1: Age of sex offenders at time of referral

	N	X	SD	Range	Mode	Median
Age at referral	119	41	13.436	18-79	50	41

Table 2: Percentage break-down of referral sources, (N=119)

	Probation	Solicitors	Courts	Mental health services	other
%	59.7	16.8	9.2	5.9	8.4

Table 3: Percentage breakdown of the ethnic background of sex offenders referred, (N=119)

	British/European	Afro Caribbean	Asian/Indian	Mixed ethnicity	Missing data
%	52.1	6.7	1.7	5.9	33.6

Table 4: Percentage break-down of the sex offender's legal status at the time of referral, (N=119)

	Remand on bail	Remand in custody	Sentenced (awaiting parole)	Paroled	Informal	other
%	44.5	16	15.1	10.9	7.6	5.9

Two of the referrals were for offenders who had committed sexual offences (current, past and/or unconvicted allegations) exclusively against adults (aged over 16 years). These referrals were excluded from this study for the following reasons; different typologies have been developed to describe those who sexually offend against children (Knight and Prentky,1990) or adults (Groth et al, 1982). A sample of two could not be generalised to the population of sexual offenders against adults and it was possible that it would contaminate the data regarding those whose sexual offences were against children. This was the sole exclusion criterion for this study.

3.11 Participants for the qualitative study (Judges)

Table 5 summarises the details about the five judicial participants. The participant Judges principally reside at Crown Courts within Greater London; a County Town in the South of England and Inner London (the Old Bailey/Central Criminal Court) Distinguishing details about the participants are scant for reasons of confidentiality.

Table 5: Summary details about the 5 Judges

	Gender	Status	Courts at which they reside
Judge 1	Male	His Honour Judge	Judge at Crown court on the South West Circuit
Judge 2	Female	Her Honour Judge, Queens Council.	Sits at Crown court; Family court and on Mental Health Review Tribunals
Judge 3	Male	His Honour Judge, Queens Council	Resident Judge at Crown court. Recorder of this court.
Judge 4	Male	Lord Justice, Queens council	Resident Judge at the Central Criminal Court
Judge 5	Male	Lord Justice, Queens council	Resident Judge at the Central Criminal Court and sits at a Crown Court in the North of England and on Parole Boards

The Judges were mainly recruited through liaison with the Senior Probation Officer at the Courts concerned. One judge was initially recruited via an informal contact.

For all participants the liaison person provided information (Appendix 4) about the intended research to the most senior resident Judge of the Court. A favourable response regarding recruitment was received from all Recorders enabling Judges from their court to participate in the research. The liaison person then approached Judges they thought would be amenable to research participation and appointments were arranged for the researcher (introduced as a trainee Clinical Psychologist on placement in a Forensic Psychology Service) to meet with the Judges. For inclusion in the research the Judges were required to sit at Crown Courts and to be approved to preside over cases of child sexual abuse. The researcher interviewed four of the Judges in their Chambers and one at home. All Judges were informed that the researcher intended to tape-record interviews and participants' agreement to this was verbally checked prior to the start of the interviews. In addition, at the start of the interview, participants were given a consent form to sign, which the researcher co-signed. The consent form covered all aspects of confidentiality, data management and the procedure that the participant was to be involved in (Appendix 5).

3.2 Materials for audit

Client case files; Schedule of variables (Appendix 6); writing materials; SPSS for windows 6.1 statistical package.

3.21 Materials for qualitative interviews

Tape-recorder; consent-forms; writing materials; prompt questions; highlighters and word processing package for selecting thematic data for analysis.

3.3 Development of the schedule of sex offender characteristics

Variables relevant to describing the offender, the offence(s), the victim(s), the legal process and factors pertinent to clinical decisions about treatability were selected by the researcher on the grounds of the researcher's knowledge of clinically pertinent information about this population and previous research into sexual offenders (Craissati and McClurg, 1995). The chosen variables were discussed with a senior clinician working in the field to ensure validity of these variables such that they would facilitate acquisition of anonymous information that would be representative of the population under audit and which would, in addition, provide material relevant to each of the five categories of information under investigation.

A database for the independent variables was set up in SPSS for Windows to facilitate data collection in the coding format suitable for statistical analysis. Variable labels were given to the different expected categories within each variable. If data within case files did not fit into the expected categories a new category was added within a variable, for example if a participant's job did not fit into the job categories already gathered.

3.31 Preparation for the Judicial interviews

The researcher devised a list of questions pertinent to the research questions being investigated. These questions were discussed with a senior clinician and with a Senior Probation Officer based at a Crown Court for the purpose of ensuring validity. In addition, these discussions explored the most appropriate and practical interview format for the judicial interviews. Given the anticipated limitations on

time that the Judges would be able to offer for participation and the importance of generating an understanding of the Judges' unique views, rather than restricting their responses by the provision of a fixed format, these discussions resulted in the questions being broken down into two broad themes designed to be investigated in semi-structured interviews using open ended questioning. It was anticipated that interviews would require approximately half-an-hour. The themes related to attitudes towards sentencing and attitudes towards psychologist's roles in the court. The researcher had divisions within these themes which could be used as prompts to facilitate understanding in greater depth about specific areas as necessary. The semi-structured interview facilitated ecological validity, for example, by enabling the researcher to ask questions pertinent to the current Parliamentary sentencing debates which, if legislation follows, will have considerable implications for both professions' roles regarding the process of sentencing sexual offenders and the ramifications of so doing.

The selected interviewing method adhered to the principles of grounded-theory qualitative analysis (Henwood and Pidgeon, 1995). This is a bottom-up method of data collection in which the researcher draws on material from previous interviews to develop and focus information gathering in later interviews.

3.4 Procedure for audit collection

Case-files for all sexual offenders referred to the Forensic Psychology Service for assessment or treatment of their offending behaviour were examined in detail.

Dependent upon the legal status of the person at the time of referral and the

subsequent work undertaken with the offender, the case files included all legal depositions (i.e. all witness statements, the defendant's statement(s), records of previous convictions, and occasionally a summary of the criminal hearing); reports from other involved professions (i.e. Probation, Social services, Psychiatry) the Psychological assessment report and treatment notes and reports. By the nature of case files containing details relevant to the offender's clinical assessment and treatment, not all aspects of the devised schedule of variables could be ascertained for each person. For example, if an offender did not use illicit drugs information about his use of substances of this nature was not likely to have been reported in his file.

As an additional check that such instances of missing data were indeed not known and not merely unrecorded, all missing data were double-checked against the offender's Challenge Project schedules. The Challenge Project is the name given to the Service's treatment programme for sexual offenders. Research on the Challenge Project is ongoing and part of its data collection process involves collecting certain characteristics of its population in a schedule format (Appendix 7). The Variable schedule for this study and the Challenge Project Schedule overlap on some key areas. The Challenge Project schedules are completed from the Psychologist's Assessment Report and double-checked with the Psychologist who completed the assessment. For the purposes of this research the author thought it important to gather data from as many corroborative sources as possible, hence the scrutiny of each client's complete file. An example of information which may differ from that gathered by the Challenge Project Schedule relates to the variable about the offender's use of pornographic material. In a few cases the offender had denied all

use of pornography in their Psychology assessment and it had, thus, not been reported in his Psychological assessment report nor recorded on the Challenge Project Schedule, however, the victim statements reported that the offender had used pornographic material. The procedure implemented in this study enabled such information to be used. In addition a large number of variables considered within this study were not collected for the Challenge Project. Eight files were not available for scrutiny at the time of undertaking this research. Data for these people were gained solely by using the Challenge Project schedules which had been compiled.

Reliability was ensured by using the method of inter-rater reliability. An independent rater randomly selected five sex offender referrals and used information held in their case files to answer questions relevant to the variables sought by the researcher. The person co-coding this data was given a schedule of the variables (Appendix 6) for ease of answering. The percentage of interrater reliability was 97.97 percent over the five case files (range of interrater reliability 96.97 percent - 100percent). Coding differences were mainly associated with variables requiring subjective categorisation (assessing relationships and degree) rather than factual categorisation (yes - no responses).

3.41 Procedure for Judicial interviews

The interview setting required quiet surroundings in which the participant could feel comfortable enough to voice their opinions. This criterion was specified to the liaison person who arranged the timing of the interviews with the Judges concerned.

The researcher met the participants at a place and time of convenience to the

participant. In the main, interviews were held after the participant had retired from their courtroom for the day.

Before beginning the interview proper, participants were asked to read and sign the consent form and were offered additional verbal information to that already provided in writing, about the research and the researcher, as required. Participants were briefed about the format being semi-structured, such that they would be asked open-ended questions covering a few topics (as outlined in their letter). It was emphasised that the researcher would not keep asking questions but would provide prompts, as necessary, to cover each of the areas under investigation. The first recruited participant was used to pilot the interview procedure but it was not considered necessary to change it.

After the interview the researcher reminded each participant that they would receive a typed transcript of their interview that they could amend should they wish to correct some of what they had said, or if they did not wish parts to be reported in the research these could be omitted. This level of participant scrutiny was aimed at ensuring reliability of the data collected, by the Judges checking that the transcript accurately stated their views. In addition, it was intended that this method would encourage participants' openness within interviews, since they could freely choose to remove material prior to its inclusion without giving a reason. The researcher transcribed the interviews and returned them to the participants within a week of their interview, with a reply-paid envelope, and reminders about the researcher's commitment to ensure their confidentiality and to provide them with a completed copy of the research (Appendix 8a-e; 9).

3.5 Statistical analysis

Frequency tables were obtained for each variable to generate the descriptive profile of characteristics for this population. The researcher made decisions based on clinical and conceptual factors to select variables from the database, relevant to each of the five categories, which would be statistically tested to explore their association with the dependent variable (sentencing outcome). In addition variables were selected from the Judicial interviews relating to participants perceptions about which factors were most influential to their sentencing decisions. Those variables selected, by participants and the researcher, were tested statistically using the same tests of statistical analysis. Chi-squared statistical tests were used in the main to determine this degree of association. The Chi-square is a non-parametric test and was selected because most of the data collected were of a nominal (categorical) nature. The Chi-square test cannot be used to test associations between any variables in which the expected frequency (ef) is less than 1 in any cell. For data of an ordinal (for example, degree of emotional neglect in childhood) or interval scaling (for example number of victims) the Kendalls-Tau (C) statistical test was used to test the degree of correlation between that variable and the dependent variable (dichotomous category).

Logistic regression analyses were undertaken on those variables, selected by either the researcher or the Judicial Participants as being influential to sentencing outcome, that were found to have a significant association with the dependent variable. The statistical test of Logistic Regression explores their variance predictive power in relation to the dependent variable. Logistic regression is a non-parametric test.

3.51 Qualitative analysis

Initial thematic analysis of the data was undertaken by listening to and transcribing the taped interviews. Information relevant to the research questions was selected from each transcript using a highlighter pen and quotes from each participant were sorted, using a word-processor, into five themes most relevant to the areas under investigation (factors affecting attributions of offence seriousness; attributions of causality of crime; weightings given to reasons for sentencing; other influences on sentencing and Judicial opinions on Psychological reports in legal settings) . The five themes comprised the great majority of the material transcribed. Each theme was further scrutinised to ascertain those quotes in agreement and those that were unsupportive of the area being analysed to accurately ascertain the nuances of each participants opinions. The most poignant quotes representative of the spectrum of opinions within the five themes were further selected to ensure that each participant's views had been represented in the material to be presented in the Results.

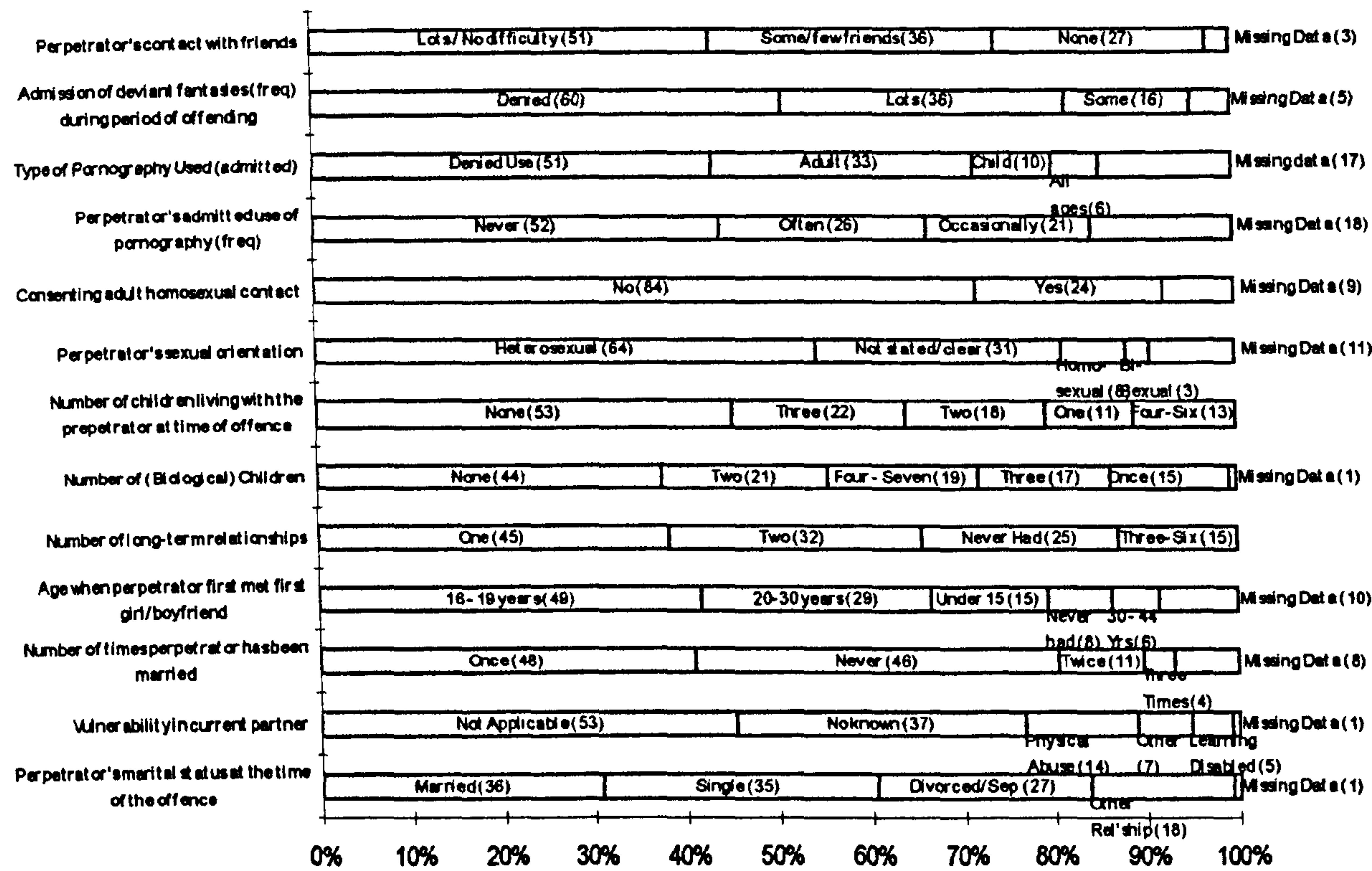
4. Results

4.1 A profile of the characteristics of the sexual offenders (and their offences) referred to the service.

4.11 *Perpetrator's background information*

4.111 *Relationships and psychosexual history*

GRAPH 1: Summary details of the Perpetrator's relationships and psychosexual history (N=117)

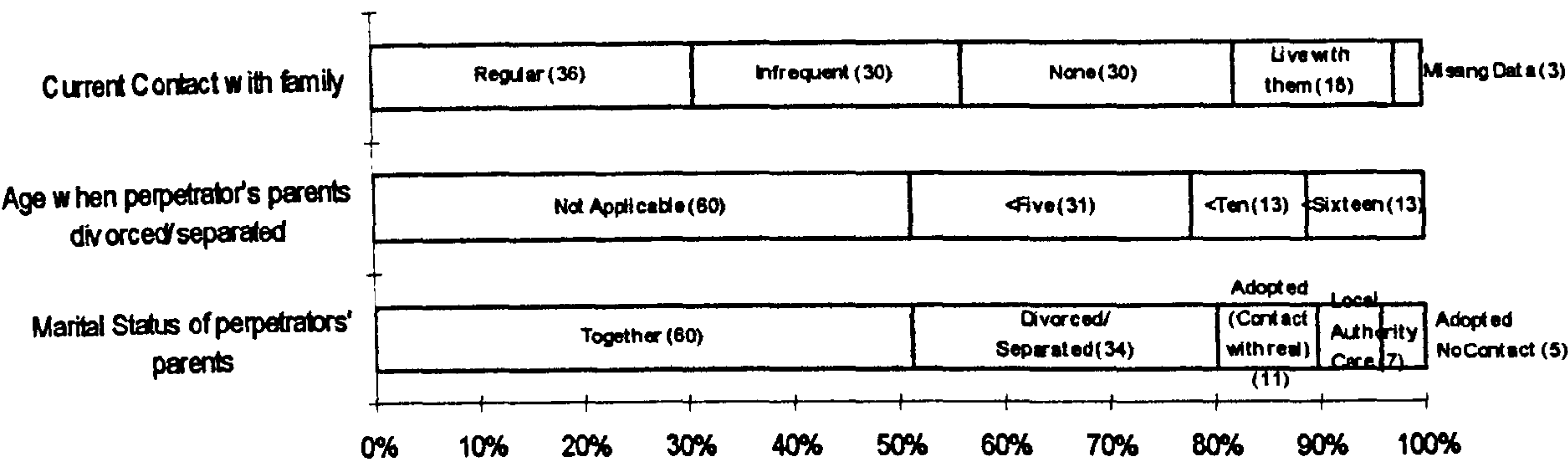


As can be seen by graph 1, the mode characteristics relating to the perpetrators relationship and psychosexual history show the following profile; a heterosexual married man with no difficulty making friendships. Most of those referred denied using pornography, having deviant fantasies relating to their offence or having experienced an adult consenting homosexual contact. The mode number of marriages and long-term relationships was one. The perpetrators' mode number of

biological children and the number of children living with the perpetrator at the time of the offence was none.

4.112 Family background

GRAPH 2: Summary details of Perpetrator's family background (N=117)



A

s can be seen in graph 2, the mode characteristics of the perpetrators' family background indicated that most of the perpetrator's parents were married/together during the perpetrator's childhood. Regular contact was the category most frequently used to describe the perpetrators' current contact with their families.

4.113 History of abuse and trauma in childhood

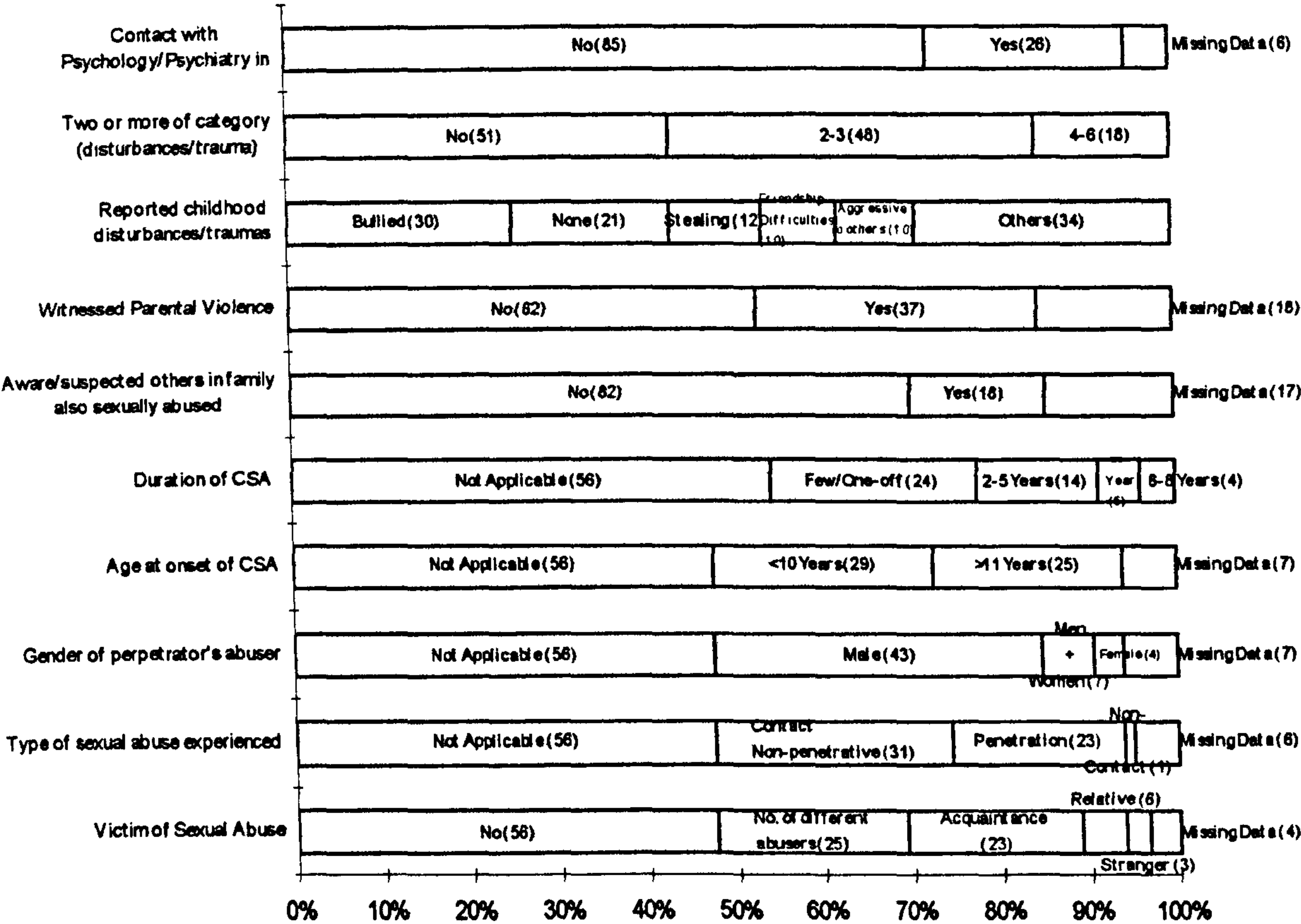
Graph 3 shows that up to and at the point of assessment, almost half of those referred for sexual offending denied having been the victims of child sexual abuse themselves. Of those who had been victims of CSA, the largest category was for those who had been sexually abused by a number of perpetrators during their childhood.

The most frequent form of CSA experienced was non-penetrative contact (e.g. fondling, masturbation, oral sex) and the majority of the abuse was perpetrated by

men. Seven of those referred had been sexually abused by men and women and four by women only.

The mode ages of CSA onset were six and eleven and the mode duration of CSA was one-off/few occasions. The longest period of abuse was eight years and the mean duration (where specified) was three and a half years. Most perpetrators were neither aware nor suspected that others in their family were victims of CSA, nor had they witnessed parental violence.

GRAPH 3: Summary details of Perpetrator's history of childhood abuse and trauma (N=117)



As can be seen in Graph 3, most of the perpetrators referred reported experiencing disturbance or trauma (see appendix 10 for categories). The most frequent trauma reported was bullying and more than half of the population experienced two or more examples of childhood disturbance or trauma. The majority of the population

had not, however, been in contact (for assessment or intervention) with psychology or psychiatry services in their childhood.

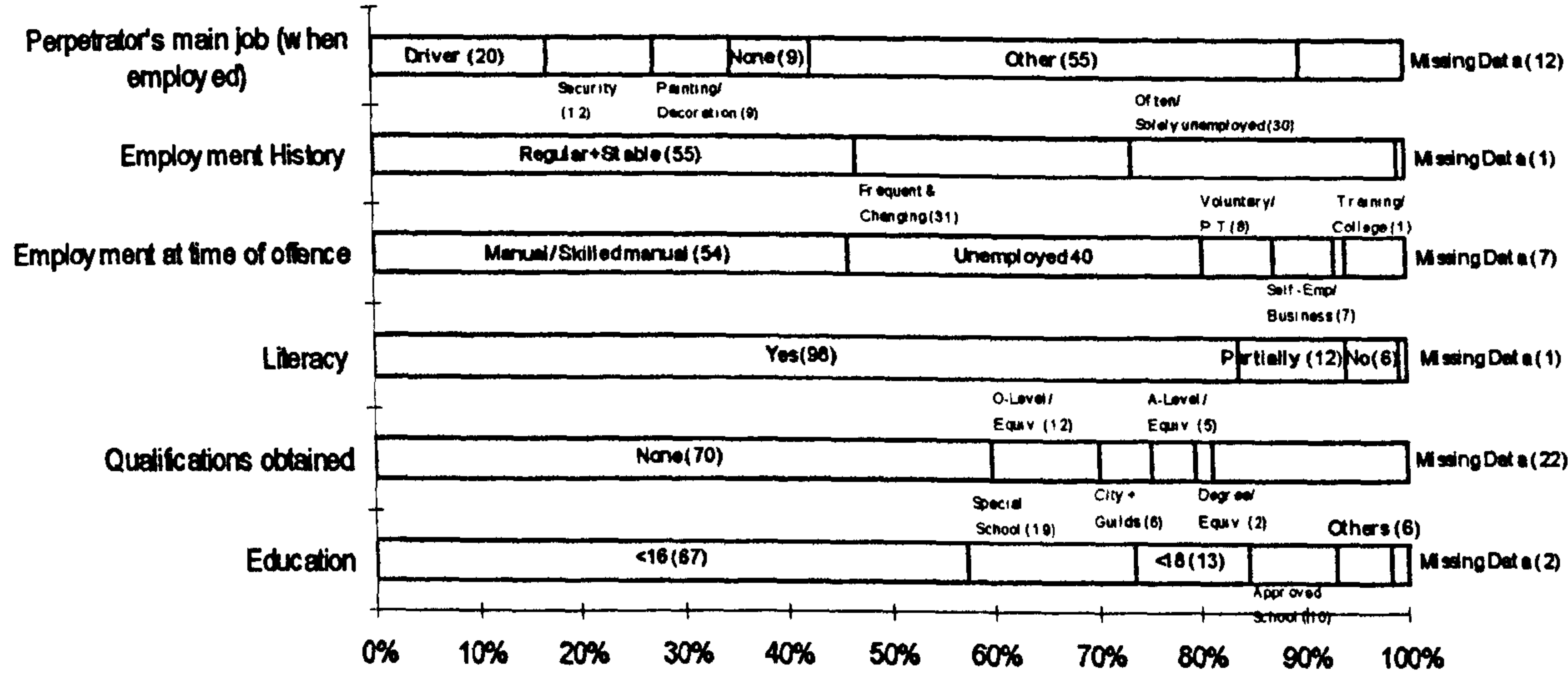
Table 6: showing summary details of abuses experienced by the perpetrators in their childhood

	N	None	Some	A lot
Emotional neglect	117	25.6%	40.2%	34.2%
Physical abuse	116	50%	18.1%	31.9%

Using a Likert scale to rate the perpetrators own experiences of abuse in childhood, most perpetrators were regarded as having experienced some degree of emotional neglect and equal percentages had, as had not, experienced physical abuse (see table 6).

4.114 Education and work history

GRAPH 4: Summary details of the Perpetrator's education and work history (N=117)



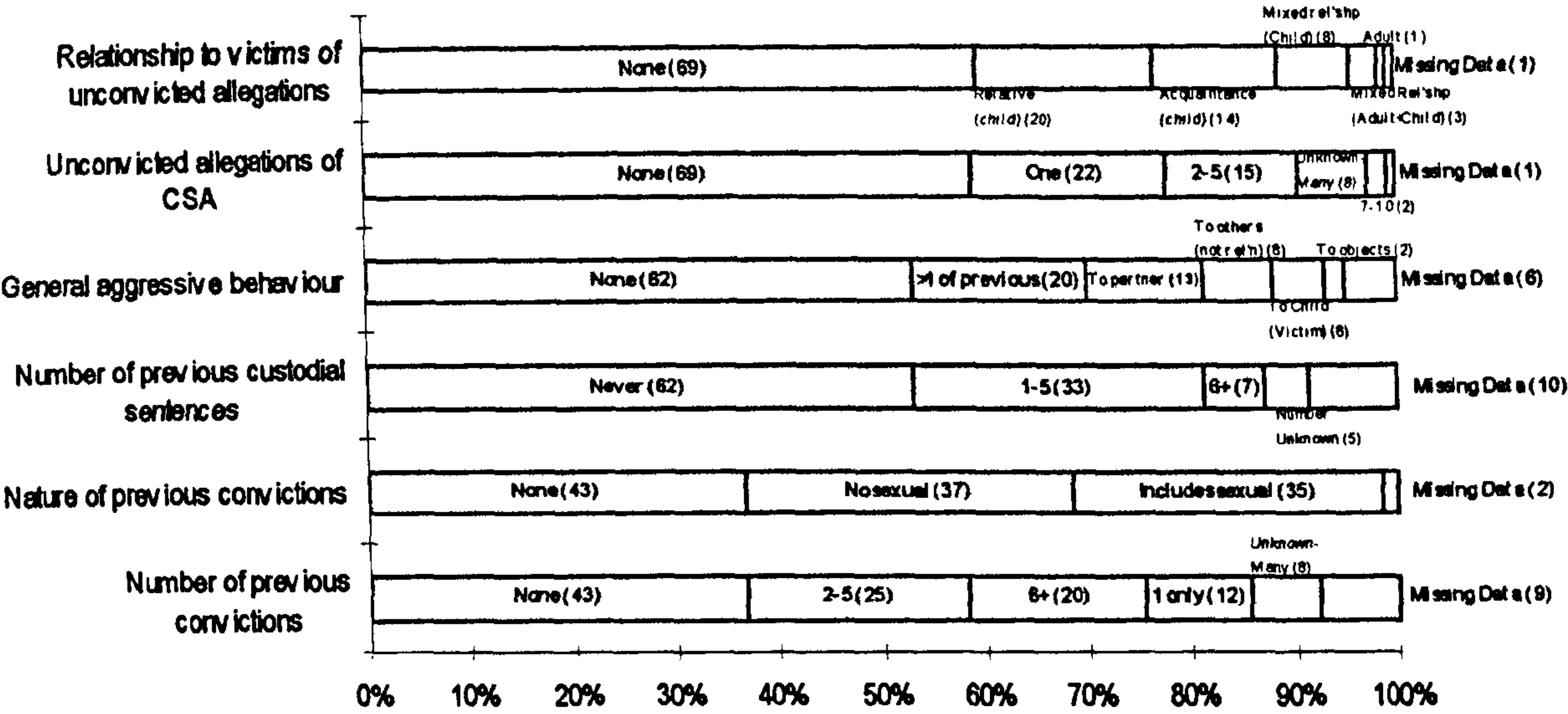
The mode school leaving age was less than or exactly sixteen years old, as Graph 4 shows. An additional third of the population had received special needs education due to learning or behavioural difficulties or had spent time at an approved school

as a consequence of offending behaviour. The majority of the referred population had not gained any qualifications.

As Graph 4 also shows, most of the perpetrators were literate and of those employed at the time of their offence, most worked in manual or skilled manual jobs. The mode category regarding employment history indicates regular and stable employment. The jobs most frequently held by this population were those involving driving (e.g. lorries, taxis, couriers) or security (Appendix 10).

4.115 Forensic history (not including the index offence(s))

GRAPH 5: Summary details of Perpetrator's forensic history
(excluding index offence) (N=117)



As Graph 5 shows, the mode characteristics relating to the perpetrator's forensic history shows the following profile: men who are not generally aggressive, have no previous conviction and no unconvicted allegations of CSA against them. Of those who did not fall into the mode categories, known previous convictions ranged from two to twenty, were almost equally split between the number who had previous convictions of a sexual nature and those whose convictions were non-sexual.

Unconvicted allegations of CSA made most frequently regarded a relative and those who displayed generally aggressive behaviour did so towards a number of targets.

Table 7: Summary details of the sexual offending history of those referred

	N	\bar{X}	SD	Range	Mode	Median
Age at onset of sexual offending (years)	105	30.32	12.68	10-71	30	30
No. of years between onset of sexual offending and current referral for assessment	104	10.82	10.81	0.5-45	0.5	7.5

Most offenders who were referred to the service had committed their first sexual offence age thirty and many of them were referred within one year of this offence (see table 7).

4.116 Substance misuse.

Table 8: A summary of the perpetrator's use of substances during their sexual offending history

	N	None	Some (not problematic)	Problematic
Alcohol use	114	42.1%	28.9%	28.9%
Drug use (illegal and prescribed)	111	85.6%	4.5%	9.9%

As shown by table 8 there was no evidence of chemical misuse in most of the offender's case files.

4.12 Information about the index offence(s)

Table 9: Summary details about the index offence(s)

	N	\bar{X}	SD	Range *	Mode*	Median
Number of victims in the index offence(s)	116**	1.8	1.255	0-9	1 (n=61)	1
Duration of abuse with victim 1 (yrs)	116	2	2.865	0.1-16	0.1 (n=40)	1
Duration of abuse with victim 2 (yrs)	55	2	2.617	0.1-10	0.1 (n=17)	1
Duration of abuse with victim 3 (yrs)	23	2.1	2.844	0.1-10	0.1 (n=8)	0.5
Average duration of abuse with all victims (yrs)	116	1.8	2.386	0.1-13	0.1 (n=40)	1

Key: * 0.1 = one off/ few one off occasions
** = one index offence did not involve victims (i.e. possession of indecent material)

Table 9 shows that most of the perpetrator's index offences involved more than one victim and that most of the offences involved one off/few occasions. The length of some of the offences brings the average duration of each of the offences to approximately two years.

Table 10: Relationships between the perpetrators and their victims

	N	Father	Step-father	Other relative	Acquaintance	Stranger	Mixed
Victim 1	116	18.96%	12.93%	18.10%	43.96%	7.75%	N/A
Victim 2	56	19.64%	8.93%	19.64%	42.86%	8.93%	N/A
Victim 3	24	16.67%	8.33%	4.17%	50%	20.83%	N/A
Other victims	52	9.62%	7.70%	15.38%	32.69%	15.38%	19.23%

Table 10 shows that the mode relationship category between the perpetrators and their victims was acquaintance.

Table 11: Form of abuse with each victim

	N	Penetrative	Contact, non penetrative	Non contact
Victim 1	116	49.14%	46.55%	4.31%
Victim 2	55	35%	58%	7%
Victim 3	23	31.44%	56.52%	13.04%
Other victims	51	31.37%	62.75%	5.88%

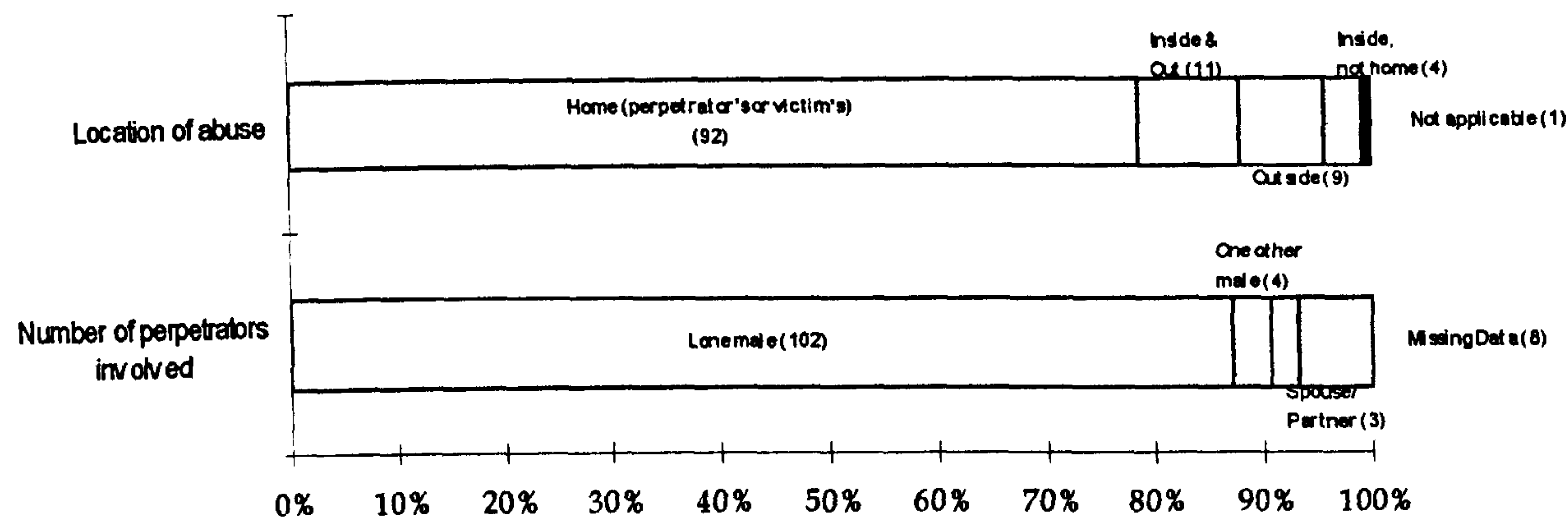
Table 11 shows that the mode form of abuse was penetrative for the first victim (assigned first by the researcher due to seriousness of offence) and consisted of non penetrative sexual contact for all other victims.

Table 12: Percentage of types of coercion used by the perpetrators

	N	Yes	No
Direct threats	106	44.34%	55.66%
Physical Coercion (i.e. force)	109	31.19%	68.81%
Other (e.g. bribery, drugs)	108	63.89%	36.11%

Victim coercion was obtained mainly through use of bribery, as shown by table 12. Physical force as a means of coercion was used in the minority of cases.

GRAPH 6: Summary details of Index Offence (N=117)



Graph 6 shows most index offences involved a lone perpetrator and were committed at home (either the perpetrator's or the victim's, often both).

4.13 Information about the victims

Table 13: Summary details about the victims in the index offence(s)

	N	X	SD	Range	Mode	Median
Age of victim 1 (years)	114	9.96	4.74	1-43	8 (n=15)	9
Age of victim 2 (years)	52	11.11	7.98	1-50	13 (n=8)	10
Age of victim 3 (years)	20	11.75	11.61	3-59	8 (n=5)	8

Table 13 shows that the mean ages of victims, when these perpetrators began to sexually abuse them, was between nine to twelve years.

The majority of the perpetrators offended solely against female victims (65 percent; N=117); 22.2 percent solely offended against males and 12.8 percent offended against male and female victims. Insufficient data (41 percent missing data) about victim ethnicity was available to reliably present this information.

4.14 Information about the legal proceedings

The majority of the population (N=109, due to limited availability of this information) were charged with three offences relating to their index offence. Forty nine point five percent (N=109) had more than three charges (range 4-20). Forty five point three percent had two, and 18.47 percent had only one index conviction. Thirty seven percent of the population had not been charged. Indecent assault accounted for 53.3 percent (N=105) of the primary charge (in order of decreasing seriousness); 56.5 percent (N=92) second counts and 56 percent (N=75) of third counts. The second most frequent index convictions were; rape (20 percent; N=105) for the first charge; buggery (10.8 percent; N=92) for second charges and gross indecency (12 percent; N=75) for the third charge. Overall the type of acts of which the index charges comprised (over three charges) were 61.7 percent (N=107) non penetrative and 38.3 percent penetrative.

Of the 108 cases in which data on pleas was available a greater number of perpetrators pleaded guilty to the first count at court (76.9 percent) than they did when initially charged with the offence (63.9 percent). This pattern is consistent for each of the counts with which people were charged.

Charges were reduced from those indicating penetration (e.g. rape) to charges suggestive of lesser, often non-penetrative, sexual offences (e.g. indecent assault) in the cases of 13 perpetrators (12.1 percent; N=107) between the time that they were charged and their court case.

The majority of this population (N=117) were convicted of three counts in their index convictions. Thirty six point five percent had more than three counts (range 4-20). Fifty five point six percent had two, and 76.1 percent had only one index conviction.

Three point four percent of the population did not have an index conviction because court proceedings had not been undertaken or followed through. The mode conviction for each of three counts was indecent assault, which accounted for 63.7 percent (N=113) of the primary conviction (in order of decreasing seriousness); 68.5 percent (N=89) second counts and 60 percent (N=65) of third counts. The second most frequent index convictions were; rape (11.5 percent; N=113) for the first count; buggery and gross indecency (each 6.7 percent; N=89) for second counts and gross indecency (12.3 percent; N=65) for the third count. Overall the type of acts of which the index convictions comprised (over three counts) were 74.1 percent (N=113) non penetrative and 25.9 percent penetrative.

Table 14: Summary of sentences given to the perpetrators referred

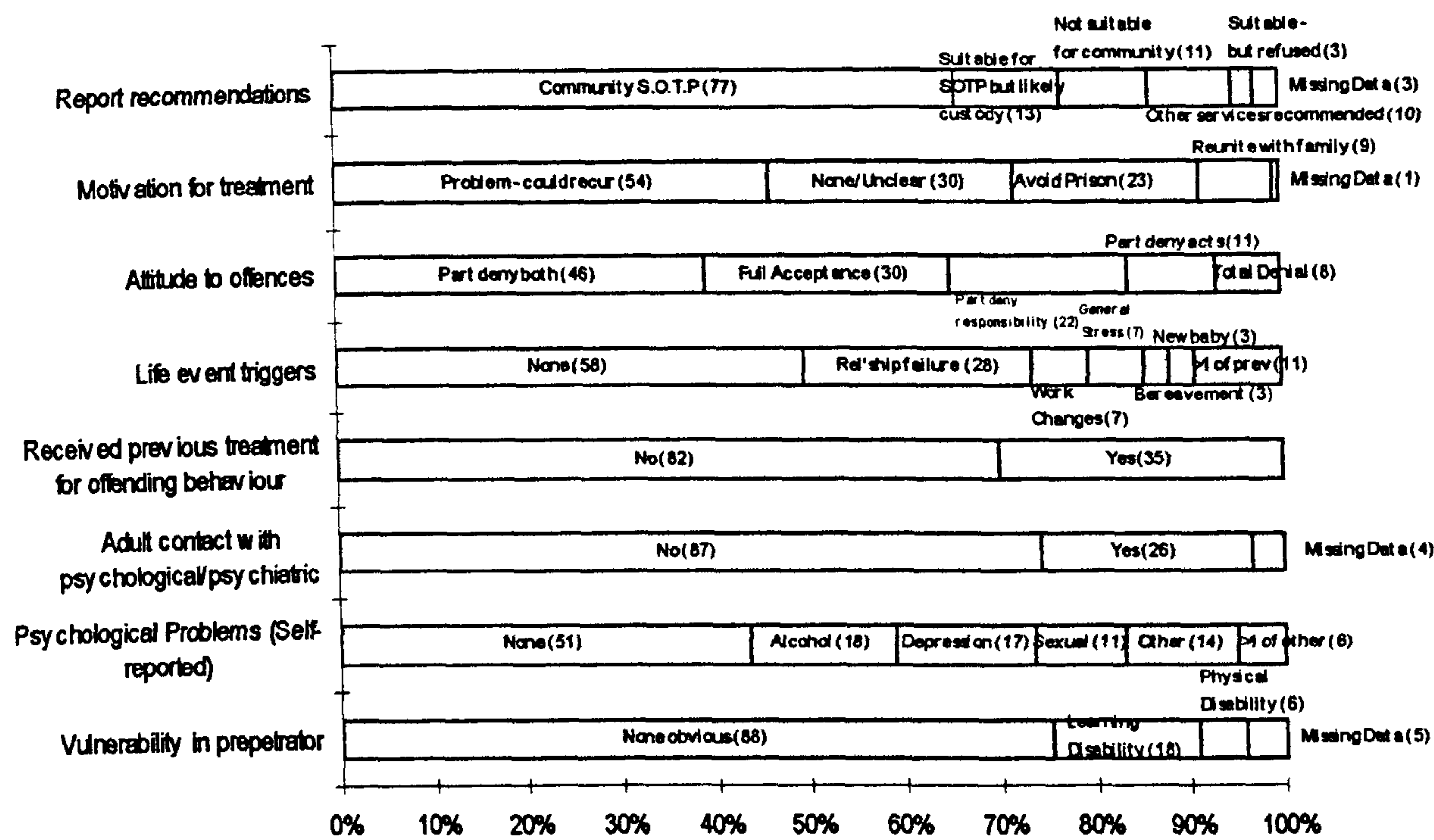
	N	Yes	No (i.e. received custodial sentence)
Received Community	109	42.2%	57.8%

As can be seen in table 14 most of the perpetrators received a custodial sentence for their index offence(s). Of those given community sentences 80.85 percent were given a condition of treatment in order to attend the sex offenders treatment programme led by the Forensic Psychology Service. Of those who served prison sentences the mode duration of sentence given was 72 months (6 years; n=7;) with a range of 3-144 months.

Of those referred for Parole assessments 12.1 percent were granted parole with conditions of treatment regarding their sexual offending; equal percentages were either refused parole or granted parole without any conditions of treatment (5.2 percent) and 0.9 percent were given parole with conditions to attend another treatment service.

4.15 Additional Information pertinent to decisions about treatability

GRAPH 7: Information pertinent to treatability (N=117)



As shown in Graph 7, most perpetrators had no obvious vulnerability that might make it more difficult for them to receive treatment. The majority of perpetrators reported having one psychological problem (mode category was alcohol abuse, then depression). Just over half of the perpetrators associated a significantly stressful life event with the onset of committing their index offence, the most frequent reported event cited being the end of a relationship.

Most perpetrators had not sought contact (for assessment or intervention) with psychological or psychiatric services as an adult and only 29.9 percent had received previous treatment (for an aspect of their offending history). The mode category for providers of previous treatment were prison services/other.

The mode response regarding offenders' attitudes towards their index offence was partial denial of the acts with which they were charged and partial denial of

responsibility for those acts to which they admitted (so they partially blamed the victim or someone/thing else).

Categories regarding offenders' motivation to receive treatment for their sexual offending were assigned according to the judgement of the psychologist undertaking the assessment. The mode motivation ascribed was the offenders' recognition that their sexual offending was a problem for them and a concern that it could happen again. The aforementioned information is shown in Graph 7.

Additionally, Graph 7 details the psychological report recommendations regarding sentencing and suitability for treatment. It shows that 82.4 percent of the perpetrators for whom reports were available were initially deemed suitable for participation in a community sex offender treatment programme (S.O.T.P). The remainder were unsuitable due to a high level of perceived risk to others or needs for specialist services (for example, specialist alcohol or learning disability services).

After Court and Parole decisions had been reached, of those offered treatment (N=67), 92.54 percent took up this offer, with only 7.46 percent refusing or not attending (in almost all cases attendance conditions are imposed by the Court or Parole Board thus non-attendance would result in Breach proceedings).

4.2 The factors that Judges recognise as influencing their decisions about sentencing sexual offenders.

None of the participants interviewed chose to remove significant material from their transcripts. Two returned the transcripts unaltered and three made grammatical amendments to their transcripts to facilitate emphasis and clarification of points.

A qualitative analysis of the Judicial transcripts was undertaken using the Grounded Theory approach. Information gathered from the transcripts representative of each participants views are presented under four themes; Factors affecting Judges attributions of seriousness for sexual offences; The weightings Judges give to their reasons for sentencing; Judges attributions of causality for sexual crimes and other (external) influences on their sentencing decisions about sexual offenders.

4.21 Factors affecting Judges attribution of seriousness for sexual offences.

Each Judge has to abide by Court of Appeal sentencing guidelines which present a sentencing tariff for conviction of crimes (legally defined). Further guidelines exist to help Judges decide on aggravating and mitigating factors but otherwise such decisions are at individual Judges' discretion. Each participant described having seen before them a wide variety of sexual offences and stated how they reached decisions about the most appropriate sentence for different crimes.

"The starting point is how serious the offence is. If it is at the bottom end of the range, perhaps one offence, not particularly serious, you may be thinking in terms of a non custodial sentence. If on the other hand it is towards the top end of the range, numerous offences of a very serious nature, then you are probably thinking in terms of a very long term of imprisonment. You are...trying to assess the risk of re-offending, the likely seriousness of re-offending...the consequences to another victim if there are further offences" (Judge 1) .

This bottom-up approach to considering a sentence only after hearing all facts relevant to the case was shared by Judges 3,4 and 5. Judge 2 on the other hand took a top-down approach to sentencing.

"My view is that in almost all sexual offences you start off with a custodial sentence. If there are then numerous mitigating factors you may be able to consider a non custodial sentence". "...the

victim is bound to have been very distressed irrespective of whether there was any penetration...any physical injury or...any clinically psychological or psychiatric effect. The ordinary sort of distress is enormous and for that reason I...start off on a custodial sentence" (Judge 2).

All five participants stated that sentencing decisions were made more difficult by the range of behaviours of which each legally defined conviction could consist.

"Indecent assault can vary between what one might call a stolen kiss or an inappropriate rubbing...to something that comes very close to rape or buggery...it covers a very wide spectrum of ...conduct" (Judge 1).

"A man is convicted of rape...it is rape but it is not the rape where he has jumped out of the bushes onto a total stranger at knife-point, but where he has not accepted his girlfriend's 'No' and she means 'No'...One wouldn't want to sentence[people] like that on the same basis" (Judge 4).

The participants were asked what, in their opinions, made offences more or less serious. The factors identified as influencing the type and length of sentencing by the Judges fell into the same categories as the variables for the profile of sexual offences and offenders in the audit part of this study (see section 4.1). They follow with indications of the participants (J=Judge) who mentioned them;

- Circumstances of the offender (J4) such as the age of the perpetrator¹ (J1,5) though J3 was less sure about the relevance of this, the perpetrator's marital status (J5), number of previous sexual offences (J1,4,5), the perpetrators state of physical and mental health at the time of the offence and the trial, (J1,2,3,4,5);

¹ Data about the factors in bold were also obtained from case files in the first part of this study (section 4.1) and was statistically analysed to ascertain their degree of association with sentencing outcomes.

- **Circumstances of the crime; the nature of the act (J1,2,3,4); the number of victims (J1), the relationship between the victim and perpetrator (J3,4), the use of physical force (J2,4,5), other forms of coercion used (J3,4), location of the abuse (J3,5), the perception of the public (J1,2,3); If the offences had occurred a long time ago and had only recently come to light (J2),**
- **Information about the victim; the age of the victim (J1,2,3,5); the victim's gender (J3,5), the impact on the victim (J1,2,3), the impact on the victim's family (J2,3), the victim's desire (or not) for the defendant to be sent to prison (J2),**
- **Legal circumstances; the number of index offences (J1), the nature of the charges for which he is being tried (J1,2,3,4,5) and his pleas (J3,4,5)**
- **Factors relevant to decisions about treatability; the risk of re-offending (J1,2), prospects of reform/Psychologist's recommendations (J1,2,4,5), the defendant's attitude to his offence(s)(J3,5) and his motivation for treatment (J3,5),**

J1, J2 and J3 stated that details about the offender's background such as previous experiences of abuse, any psychological difficulties, life stresses, substance misuse may provide mitigation regarding length of sentence but would not be terribly weighty in terms of type of sentence:

"It is the readiness to meet the problem within himself...rather than the problem itself that is the mitigation" (Judge 3).

4.22 *The weighting Judges give to reasons for sentencing*

Previous research suggests that Judges’ patterns of sentencing differ. Sentencing decisions are said to be primarily based on four principles of intention: retribution, protection of the public, rehabilitation or deterrence. The participants were asked to attribute a weighting of importance to these factors.

The participants were most clear in assigning weightings to the factors of rehabilitation and the protection of the public. Judges 1 and 5 were less clear about assigning a weightings to the factors of retribution and deterrence. The author ranked Judges comments about their weightings attributed to reasons for sentencing. As can be seen by table 15 Retribution was the most important reason for sentencing sexual offenders as stated by most of the five participants.

Table 15: A summary of the weightings participants gave to their reasons for sentencing sexual offenders

	Judge 1	Judge 2	Judge 3	Judge 4	Judge 5	Mode	\bar{X}	Rank order
Retribution	3.5	1	1	3	1	1	1.9	1
Protection of the public	1	2	3	1.5	4	1.25	2.3	2.5
Rehabilitation	2	4	2	1.5	2	2	2.3	2.5
Deterrence	3.5	3	4	4	3	3.16	3.5	4

Key: 1=most important, 4=least important

Each of the participants explained their reasons why they weighted each as they did.

Retribution

The reasons favouring retribution were:

“I think perhaps more in sexual offences than in others, the public expects more retribution than in many other cases” (Judge 2).

"I...believe that the primary object of a sentence is to punish. It isn't to rehabilitate, it isn't to deter, both of which are much less certainly attainable objectives, but it is to punish" (Judge 3).

Protection of the public

Weightings given to protecting the public as an aim of sentencing were more mixed:

"I think really the protection of the public and of other potential victims is the prime consideration and you are looking at the best way of achieving that, which is not always by a sentence of imprisonment" (Judge 1).

"Protection of the public must be important. It may be negative but the fact remains that if you lock someone up they are not going to be interfering in any sense with the public whilst they are locked up" (Judge 4).

"Protecting the public is simply the expression used when [Judges] can't think of anything else to say to justify what they are doing" (Judge 3).

Rehabilitation

Rehabilitation was mostly given third priority in sentencing goals by the participants.

"I think rehabilitation probably weighs pretty heavily because successful rehabilitation will avoid any repetition of the offence and may provide the best form of protection for the public" (Judge 1)

"What I want is for the sexual offender either to be rehabilitated and/or kept off the road. I'd prefer both" (Judge 5).

"If there is rehabilitation to be done, then it can happen in two ways. After a short sentence by going to a clinic or if it is a very long time for a serious case...then...it can be done within prison" (Judge 2).

Deterrence

Judges 3 and 4 agreed with Judge 2's negative opinion about the argument for sentences deterring future offending.

"I'm not sure about deterrence in really any cases. I think it is being caught that is the deterrent, I don't think it is the punishment that is the deterrent" (Judge 2).

"I take the view that deterrence is a bit of a myth" (Judge 3).

Only Judge 5 presented a favourable response to the deterrence argument:

One has to reflect retribution and deterrence very often, I mean it is a difficult position being a Judge because I don't see myself as a figure of vengeance but I do see myself as performing a duty for the public and sometimes in front of the public, so I give fairly heavy weighting to retribution and deterrence" (Judge 5).

4.23 Judges attributions of causality regarding sexual offences

To preside over sexual offence cases Judges have to be approved. Their approval is granted as a result of their experience as a Judge rather than necessarily any formal training in the nature of sexual offences and/or offenders. Therefore, sentencing decisions are likely to be heavily influenced by their beliefs about the underlying reasons for the defendant committing the offence. The need to understand the causality was summed up by Judge 1 in relation to the variety of sexual offences he comes across:

"I think really at each extreme and in the middle, you need to know what is going on in these people's minds" (Judge 1).

There was some consensus that sexual offending against children may be related to pathological causes;

"Paedophilia is abnormal. ...whereas for a man to desire sexually a woman and at least on some occasions to make an unwelcome pass, is not abnormal. It is improper but it is not abnormal" (Judge 3).

"My own rather simplistic view is that people who commit sexual offences against children, almost must have something wrong with them...but with most rapists...they are bad rather than mad" (Judge 4).

Re: sexual offenders who admit committing the act but deny responsibility, or that the act was wrong; **"I suspect their thought processes may be so permanently warped that there may be very little prospect of doing much for them" (Judge 1).**

Equally, consensus was obtained regarding opinions that some child sexual offenders are 'normal', but evil:

"A twenty-four year old man who buggered an eleven year old, unprotected, knowing he had HIV, did it quite deliberately and he had some three or four years earlier indecently assaulted an eight year old girl and shortly before that he had indecently assaulted another girl. I feel that sometimes when you get a compulsive offender...an indeterminate sentence may be a good idea" (Judge 5).

"With child sex offenders...my experience is that they are all too frequently extremely cunning, very patient and they will literally groom children...the perpetrator will spend several years building up to full sexual intercourse, they don't rush into it, it is calculated, evil.." (Judge 1)

"There was one - I have the feeling that the man concerned was driven to do what he did with these children not by what seemed to be a series of psychological hang-ups but out of experimental reasons...I can't help feeling that the films had triggered him off...I had made up my mind that it was a piece of wickedness" (Judge 5).

"I am in many cases sceptical about their motivation when it is a choice between trotting along for counselling, however time consuming it may be, or being banged up. Nothing like the clang of the prison doors to motivate one wrongly" (Judge 2).

[A] "striking feature about those cases is how often the victim will say that he or she was told "this is perfectly normal", "all father's do this"...I have no hesitation in believing that...this is an established technique for seducing children" (Judge 1).

There was mixed opinion about specific causes such as the relevance of having been a victim of abuse oneself:

"Very often they will say that they were abused...when they were young... I had one series of cases...with one young man...a victim of quite a large number of men...there was a report on him from the Tavistock Clinic which made devastating reading. He is reckoned to be suffering from Post Traumatic Stress Disorder and they are extremely concerned that he in his turn will become an abuser of children" (Judge 1).

"If somebody was abused as a child...I find it difficult to understand why that doesn't make him less ready to do it [sexually abuse children] rather than more ready" (Judge 3)

The aforementioned examples highlight the difficulties Judges encounter when sentencing sexual offenders and how their understanding of the cause of an offence

could lead to a particular form of sentence (Community or custody) as opposed to the other for cases which are, on the face of it, similar.

4.24 Other (external) influences on sentencing

In addition to Judges' legal guidelines and their internal reasoning for making sentencing decisions, Judges are influenced by a number of external factors such as the opinions of the media, the Government, Professionals (Psychological influences will be dealt with later) and the public. Participants described how they thought that external factors of the aforementioned types, influenced their decision-making processes when sentencing sexual offenders.

Media

Some of the participants commented on how their sentencing practice was influenced by the media;

"The...thing that you need to remember is that the Judge...has got to sell that sentence to the public. The number of times Judges get into trouble in the media for sentencing sex offences as opposed to anything else is very high" (Judge 1).

"It is a desperately difficult area, both in terms of whether people are guilty or not guilty and if they are guilty, what the appropriate sentence should be. It is not helped by very often grossly inadequate and inaccurate, reporting in the papers of what happens....I think public perceptions on sentencing are not necessarily borne out when you actually see what is happening" (Judge 1).

"One doesn't want to go down as one of those who: "and this is the Judge who let out the person who four minutes later did this and that and the other". One has to guard against that as well" (Judge 5).

Legislation

Current Government Legislation in the form of a White Paper on sentencing, is being debated hotly in the media. It's implications for the Judiciary are immense in terms

of removing Judges' autonomy to make sentencing decisions by regulating sentences from Central Office. Participants were asked to comment on the debate and the implications for their sentencing practice should the Bill go through.

"I think if the person has committed two rapes a life sentence is very likely to be right. But circumstances differ so much...I don't believe in minimum fixed sentences for anything...You may well be forced into a decision where you pass a sentence which is unjust on the circumstances and unnecessary and undesirable" (Judge 3).

"I am totally opposed to it. I think it is wholly wrong. I can't see where the justice begins to be in that or where the public would want to see it happen" (Judge 2).

"Michael Howard's statistical basis for some of his conclusions is deeply flawed because it is based on the period immediately after the 1991 Criminal Justice Act...the main purpose of which was to persuade Judges to send fewer people to prison. So the pendulum has swung from one extreme to the other in the space of 5-6 years, which is not a very satisfactory basis on which to conduct a sentencing policy" (Judge 1).

Each of the Judges gave examples in which the proposed legislation would result in an unjust sentence being passed. However the opinion of Judges 4 and 5 on the Bill was less unfavourable than their fellow participants;

"I can see the argument for [the legislation] but....I think these arbitrary solutions are dangerous. Sentencing exercises on paper are one thing, sentencing the man who is facing you across the Court is not the same" (Judge 4).

"The Government is there to reflect what the public...concerns are. I think if that seriously represents what the public wants then the Government is entitled to impose it. It is not for the Judges to say what they will do. But that said I find it both unrealistic and restrictive. I think every case is different and...a rule-of-thumb sentencing doesn't recognise that" (Judge 5).

Professional Agencies

Professional Agencies influence the Judiciary through research and presentations regarding the costs and benefits of sentencing to either Community Treatment Programmes or custody:

"We normally have a monthly meeting with the Probation Service. They sometimes bring along a speaker and we would be able to get information about the Sex Offender Project at *" (Judge 1)**

“and you look at the pre-sentence reports if there are any and of course at any medical and psychiatric reports if there are any of those. In the cases where a medical disposal is recommended...then...you would have one of the Psychiatrist’s giving evidence” (Judge 4).

“the Probation Officer may say [one thing] and the Psychiatrist [another]...So you would have to try to balance[what is said]. I suppose we have a certain experience...but it is very much a gut feeling when sentencing, and let’s face it...because Judges are, contrary to human belief, human, they are going to differ” (Judge 4).

Public Opinion

Finally Judges sentencing decisions are influenced directly by the public;

“One side will demand a sentence way above the maximum allowed by law and yet the other side will say...what is the good of locking up this man...he is not going to be any better when he comes out...it is just terribly difficult and whatever you do you are wrong” (Judge 4).

“Sitting as a Judge one is often terribly conscious that the [victim’s] family are in Court” (Judge 5).

“One has to bear in mind...the effect on the relatives and friends and sometimes neighbours of the victims...if the Courts are perceived not to be dealing sufficiently severely with offences that cause great outrage to people then the danger is that people will take the law into their own hands with all the fearsome consequences that can have...I think those are the considerations that one has in mind in passing sentence on sex offenders” (Judge 3).

4.3 Qualitative analysis of the Judicial interviews using the grounded theory approach: to explore Judicial attitudes to Psychological Reports in legal contexts

Participant’s opinions about Psychological² Reports in legal contexts were drawn from their transcripts. It is important to note that the participants were all aware of the researchers position as a Clinical Psychology Trainee working within a Forensic Psychology Service.

² The term ‘Psychologist’ was sometimes used interchangeably with ‘Psychiatrist’ by participants as representative of health service professionals. Thus unless the participant specifically distinguished the two professions comments about one will be taken to refer equally to the other profession.

4.31 Judicial opinions about Psychological Reports (specifically regarding cases of child sexual offenders)

General usefulness

The five participants had varied experience and opinions regarding the usefulness of Psychological Reports in sex offence cases. Judges 1, 3 and 5 had access to, or asked for such reports in the majority of their cases.

"I think that I very often want some form of medical assessment in the great majority of sexual cases" "You may be able to make your own assessment if the case is being contested and you have heard the evidence in some detail and...seen the defendant...but you have got to remember that you have no medical qualifications as a Judge, well very few Judges do, and you need to be guided by experts, you can't turn yourself into an expert" (Judge 1).

"Even if a report gives no indication of any Mental Health Act disposal, no indication of any form of therapy, it usually has some useful stuff in it which all helps with knowledge of the chap and his background and I think that is the same with sex offences as with others, but perhaps a fortiori with sex offenders" (Judge 3)

Judge 2 only had reports in one or two percent of sexual offence cases and found that inadequate. Judge 4 was similarly minded on this issue and also reported seeing only a small percentage of Psychological reports in sexual offence cases.

"I don't think these reports are needed in every case and it is impossible for me to judge...it is for them [counsel, Probation] to alert me" of a need (Judge 2).

In general Psychological reports were considered professional and useful as summed up by the following quote.

"They always seem very thorough and detailed" (Judge 3)

However, Judge 5 was more sceptical of their usefulness:

"The Psychological reports that I see before sentence are not very helpful. I find...usually...an IQ assessment, a fairly tame acceptance of what they are told and quite often an ultra-sympathetic diagnosis. So that often a Psychological report is accompanied by an unrealistic expectation" (Judge 5).

Most helpful aspects

By and large Judges found the most important aspects of reports to be the summary and assessment of risk. Anything else they regarded merely as supportive.

"Most important is an assessment of the risk of re-offending. Almost equally important...the prospect of any form of rehabilitation" (Judge 1).

"I think the summary and recommendations is extremely important. Quite often I suspect the Judge will turn to that first and then go back and read the report... Particularly well argued recommendations are very important...the Judge wants to know...why you are suggesting that that is the appropriate course as opposed to something else, and in a borderline case that can make the difference" (Judge 1).

"I'm not necessarily going to follow it, but it is useful to know whether you think that a particular course of action is a sensible thing or not" (Judge 2)

"The kernel of it would be the analysis and the conclusions about him...then the background...the results of any psychometric testing...his attitude to the offence, his understanding or lack of it, his reasons... The recommendation...is important even if one can't follow it to the letter then and there" (Judge 3).

"I am bound to say that my own practice is to look first at the conclusions...I want to know what the Psychiatrist or Psychologist is saying about this man and that you will find at the end" (Judge 4).

Least helpful

The most commonly asserted criticisms of Psychological reports were that they were usually too long and repeated information that would be cited by other professions in their reports and testimony.

"Quite often...ten to twenty pages...the last thing you want is pages and pages of waffle or padding. You really want to get to the heart of the thing quite quickly" (Judge 1)

"There is often a huge amount of family history and background, the relevance of which is not always entirely apparent...It may be that the significance is there for the author and the fault lies in not making it quite clear why it has gone in" (Judge 1).

"I think least helpful...sometimes you do get pages of life history" (Judge 4)

The researcher suggested a report length of four-five pages to participants, in line with standards aimed for in her placement department, to ascertain what length

might be more helpful to the participants. The response to receiving reports of this length was very favourable.

"I would be delighted to receive a report like that and I suspect that if you can keep it to that length it probably carries a great deal more weight, because it makes more impact" (Judge 1).

No specific areas of background were highlighted as irrelevant but two participants would prefer that this section was more succinct.

"The other fault that sometimes occurs...is a lot of quotation from, for example, the pre-sentence report or another document that the Judge is likely to have read... I suspect the temptation is to turn it into...a free-standing document...but it is slightly annoying if you have got a huge...pile of papers and you think, I read that a few moments ago didn't I?" (Judge 1).

"I think Psychologists rather like Psychiatrists are paid by the page and the reports often contain guff like,...he is the fourth sibling and so on. You usually get that in the pre-sentence report anyway and if not then his counsel will say it" (Judge 5).

So Psychologists should be more aware of their audience and the context within which a report will be read.

Judge 1 raised a concern from a number of his fellow Judges (not participants), that defence solicitors, particularly, tried to influence Psychologists to change their reports if they were unfavourable to the defendant.

"Judges very much rely upon the medical professions' independence and expertise and we expect to be given the unvarnished and unaltered truth about a particular defendant" (Judge 1).

No particular areas were highlighted as omissions from current reports but two participants were concerned that Psychologists be thorough in their assessments, being wary of being taken in by offenders;

"Some of them I suspect will try to get onto a treatment programme and may try and con their way through a treatment programme... Others certainly believe that the moment they are sent on a treatment programme they are cured and that is all that is necessary" (Judge 1).

“A Psychological report should say “this chap is very stupid and suggestible”...if he is very stupid and suggestible. If he is at the top of the range of IQ and is a person that very much makes up his own mind and is literate, manipulative etc. the Psychological report should say so and not be manipulated itself” (Judge 5).

Summary

Judge 2 summed up the ideal Psychological report

“I want the basic background summarised as it is understood by the Psychologist. I want the conclusions drawn both from the background and from what comes out in interview and then I want a recommendation based on those conclusions. Some reports are like that already and there is no room for improvement” (Judge 2)

4.4 Quantitative analysis to explore the factors (generated by the profile and the Judicial interviews) influencing the sentencing of sexual offenders with regard to their predictive power.

4.41 Statistical analysis of correlations (and tests of association) between independent variables and the dependent variable (sentencing outcome).

Table 16: Summary details of correlational analysis for characteristics of the offender with sentencing outcome

Independent variable	Selected by Researcher (R) or Judge (J)	N	df	Chi-square value	P value or Fisher's exact (2 tailed)*
Age of the Perpetrator	R + J	109	6	3.13420	0.79182
Perpetrators marital status at time of offence	J	108	2	0.61714	0.73450
No. of children living with perpetrator	R	109	1	0.16782	0.68206
Current contact with family	R	107	3	3.16368	0.36707
Victim of child sexual abuse	R + J	106	1	1.99817	0.15749
Employed at the time of the offence	R	103	1	0.88984	0.34552
Stability of employment history	R	108	2	0.28334	0.86791
No. of previous convictions	R	102	4	2.20714	0.69772
Nature of previous convictions	R + J	68	1	0.21687	0.64144
Previous custodial sentences	R	101	1	1.38392	0.23944
General aggressive behaviour	R	104	1	0.00601	0.93822
Any unconvicted allegations of sexual abuse	R	108	1	1.35242	0.24486
Alcohol problems	R + J	107	1	2.92642	0.08714
Drug (illegal or prescribed) problems	R + J	105	1	0.06360	1.00000*

As can be seen by table 16 there were no significant associations ($P<0.05$) between selected characteristics about the perpetrator and sentencing outcome.

Table 17: Summary details of correlational analysis for characteristics of the index offence(s) with sentencing outcome

Independent variable	Selected by Researcher (R) or Judge (J)	N	df	Chi- square or Kendalls Tau (C)* value	P value
Number of victims	R + J	109	-	0.09730*	0.34016
Perpetrator's relationship with victim(s)	R + J	108	7	6.64787	0.46644
Form of abuse performed	R + J	108	1	13.71956	0.00021***
Use of Direct threats for coercion	R + J	101	2	6.34734	0.04185*
Use of physical force for coercion	R + J	105	2	7.98638	0.01844**
Other forms of coercion used (e.g. bribery)	R + J	103	2	6.41181	0.04052*
Number of perpetrators involved	R + J	102	2	3.45741	0.17751
Place where abuse carried out	R + J	108	3	0.45517	0.92862

* P<0.05; **P<0.01; ***P<0.001

As can be seen in table 17 there is a significant association between the form of sexual abuse performed and the sentencing outcome. The data suggest that offenders who penetrate their victims (vagina or anus) are more likely to receive a custodial sentence. Each of the different types of coercion (physical, verbal and other) used to obtain the victim's compliance were correlated with sentencing outcome. The data suggest that the use of any coercive techniques are associated with receiving a custodial sentence.

Table 18: Summary details of correlational analysis for characteristics of the victim(s)

Independent variable	Selected by Researcher (R) or Judge (J)	N	df	Chi-square value	P value
Age of victim(s) (youngest) at onset of abuse	R + J	108	4	3.72957	0.44384
Victim's gender	R + J	109	2	2.16840	0.33817

As shown by table 18 none of the selected victim characteristics were significantly associated (P<0.05) with sentencing outcome.

Table 19: Summary details of correlational analysis for legal characteristics

Independent variable	Selected by Researcher (R) or Judge (J)	N	df	Chi-square or Kendalls Tau (C)* value	P value
No. of index offence(s)	R + J	109	-	0.30098*	0.00322**
Index offence of rape	R + J	109	1	4.35192	0.03697*
Index offence of indecent assault	R + J	109	1	3.16761	0.07511
Index offence of gross indecency	R + J	109	1	5.21940	0.02234*
Index offence of buggery	R + J	109	1	7.20661	0.00726**
Non-contact sexual index offence	R + J	109	1	4.40397	0.03586*
Plea(s) at Court	R + J	101	2	0.39350	0.82140

*P<0.05; **P<0.01

There is a significant association between perpetrators with between 2-9 previous convictions and sentencing decisions favouring custody, as shown in table 19. The association is less evident at each end of the range of the number of previous convictions (1 previous and 10+ previous). The defendant's conviction generally associated with sentencing outcome. Data indicate that those convicted of rape or buggery are more likely to receive a custodial sentence whilst those convicted of gross indecency or a non-contact sexual offence (for example, exposure) may be more likely to be those receiving community sentences. A conviction for indecent assault is not significantly associated with sentencing outcome.

Table 20: Summary details of correlational analysis for characteristics pertinent to clinical decisions about treatability

Independent variable	Selected by Researcher (R) or Judge (J)	N	df	Chi-square value	P value
Vulnerability in perpetrator	R	104	1	2.67193	0.10213
Self-reported Psychological problems	R + J	109	1	0.00418	0.94844
Significant stresses at onset of sex offending	R + J	109	1	0.22066	0.63854
Attitude to offence(s)	R + J	109	2	2.39832	0.30145
Motivation for treatment	R + J	108	2	0.72562	0.69572
Psychologist's report recommendations	R + J	106	1	11.39327	0.00074***

***P<0.001

Table 20 shows that there was a highly significant correlation between the Psychologist’s recommendations for disposal at sentence and the sentencing outcome. The data suggest that a custodial sentence is most commonly associated with reports in which a community disposal (with treatment offered by themselves or other agencies) is not recommended.

4.42 Logistic Regression (testing the variance predictive power) of independent variables in relation to the dependent variable (sentencing outcome).

All the data were entered in the order of most-to-least significant association. Stepwise analysis was used.

Table 21: Summary details of Logistic Regression analysis for characteristics of the index offence(s) with sentencing outcome

Independent variable	B	S.E. B	Exp (B)	df	P value
Form of abuse performed	-1.6876	0.6244	0.1850	1	0.0069**
Use of physical force for coercion	-1.0342	0.5447	0.3555	1	0.0576*
Other forms of coercion used (e.g. bribery)	-0.8849	0.4771	0.4127	1	0.0636
Use of direct threats for coercion	6.5292	0.5071	0.8747	1	0.7917

*P<0.05; **P<0.01

As can be seen in table 21, out of the characteristics of the index offence, the form of abuse performed (whether penetrative or not) was most predictive of sentencing outcome once the use of different types of coercion techniques had been taken into consideration.

Table 22: Summary details of correlational analysis for legal characteristics

Independent variable	B	S.E. B	Exp (B)	df	P value
Number of index offences ³	1.3777	0.5744	3.9656	1	0.0165**
Index offence of buggery	2.2090	1.0932	9.1062	1	0.0433*
Index offence of gross indecency	-1.2988	0.5629	0.2729	1	0.0210*
Non-contact sexual index offence	-2.1275	1.1420	0.1191	1	0.0625
Index offence of rape	1.0202	0.8370	2.7736	1	0.2229

*P<0.05; **P<0.01

As can be seen in table 22 the number of index offence counts with which someone is convicted is the most predictive legal characteristic regarding sentencing outcome, once the offence labels have been taken into consideration

Table 23: Summary details of Logistic Regression Analysis on all characteristics significantly associated with sentencing decisions

Independent variable	B	S.E. B	Exp (B)	df	P value
Form of abuse performed	-1.1665	1.2102	0.3114	1	0.3351*
Psychologist's report recommendations	-2.0892	0.8105	0.1238	1	0.0099**
Index offence of buggery	1.0020	1.6243	2.7237	1	0.5373*
Number of index offences	1.0471	0.6485	2.8495	1	0.1064
Use of physical force for coercion	-0.7448	0.5984	0.4748	1	0.2132
Index offence of gross indecency	1.2616	0.6107	0.2832	1	0.0388*
Non-contact sexual index offence	-1.9445	1.4408	0.1431	1	0.1772
Index offence of rape	-0.1754	1.4829	0.8392	1	0.9059
Other forms of coercion used (e.g. bribery)	-0.9783	0.5345	0.3760	1	0.0672
Use of direct threats for coercion	-0.725	0.5543	0.9301	1	0.8960

*P<0.05; **P<0.01

As depicted by table 23 the psychologist's report recommendations are the most predictive factors of sentencing outcome, having taken account of the other variables relevant to this outcome. The form of abuse performed on the victim is the second most predictive characteristic.

³ For the requirements of Logistic Regression analysis the data regarding number of index offences were changed to dichotomous categories of one/more than one index offence. A chi-square analysis of this altered data was significant P value 0.01152, Chi value 6.38267, 1df, N=109.

5. DISCUSSION

5.1 Discussion of method

5.11 Critical discussion of participant's recruitment and selection

Most previous investigations into sexual offenders used populations selected either from prison or from community treatment programmes, but not both. This research differs because its population (all child sexual offenders referred within a four year period to a Forensic Psychology Service for assessment or treatment) were at different stages of legal, or other agency, proceedings and over half were not yet convicted of their index offence. This enabled the research to investigate whether community or prison sentenced populations differ either in offender characteristics or in characteristics of the offences they had committed.

It is possible that the number of referrals to the department audited in this research for assessment of child sexual offence may be higher than in other similar departments over a number of years because of its close liaison with the Criminal Justice Agencies. Nevertheless, the data obtained can be deemed general to the population of sexual offenders charged and subsequently convicted of sexual offences against children.

A minority of people audited in this study had not been charged but were referred informally having admitted perpetrating an act of child sexual abuse. This study cannot however be equally generalised for the, probably far larger, percentage of

child sexual offenders who are undetected or who completely deny having committed any sexual acts against children when apprehended.

The age demographic of this population of sexual offenders (mean: 41 years) is consistent with previous research in this area (Dwyer and Amberson, 1989; Jackson and Thomas-Peter, 1994) and with findings that detected sex offenders (Craissati and McClurg, 1995) are older than the average age of criminals convicted for non-sexual offences. In view of the high percentage of missing data on ethnicity this research is unable to comment on representativeness of the ethnic distribution of its participants either within their own locality or in relation to previous research on sexual offenders. Those completing Psychological Assessments could be criticised for failing, routinely, to record ethnicity within files.

Participants for the qualitative interviews were not randomly recruited from the Judiciary but from (mainly) Probation Officers who suspected that those approached would be amenable to participating in such research. This selection bias and the very nature of the interviews, exploration of individuals' attitudes and unique decision-making influences prevents epitomising these participants as representative of their fellow Judges. However, all are practising Judges who make sentencing decisions in cases of CSA. The gender bias in the study reflects the higher proportion of male to female Judges in the British Judiciary. Many studies suggest that attitudes to sexual offenders are influenced by gender (Coombs, 1967; Gebotys et al, 1988). This aspect was not directly explored within this research and scant demographic information was obtained about the Judicial participants, for reasons of

anonymity, so differences in Judge 2's opinions to those of her fellow male participants should not necessarily be ascribed to this factor.

Participation in any form of research has some effect on the participants. Given the sensitivity of the subject matter and the status of the participants, confidentiality and anonymity were carefully considered and ensured to facilitate openness and prevent misuse of the information gathered. The main anticipated offering from participants would be disclosure of their personal attitudes to sexual offenders, sexual offending and their model of sentencing. Participants' comments enclosed with their returned transcripts (Appendix 11) show that they all viewed their participation in the research positively and aside from alterations to clarify or emphasise points made in the interviews, all the transcripts were left unaltered.

5.12 Critical discussion of design and analysis

This research directly links the two fields of Psychology and Law, incumbent in forensic psychology. The historical contexts and theories on which the Judicial and Psychological professions have developed differs widely, so data obtained from either perspective may not immediately compare: for example the decisions underpinning Clinical Psychologists' recommendations for sentencing disposal are likely to differ entirely from those underpinning Judicial decisions about it, although the disposal selected may be the same.

The different methods of data analysis used in this research were selected to compare data on the same phenomena from different perspectives and to explore and produce data on specific areas under investigation. The research methodology combined audit, qualitative and quantitative analysis approaches. Although not common, precedence exists for such an integrated methodology (Alan, 1987; Mason, 1994). Throughout the study the researcher endeavoured to ensure appropriate links were made between the different strands of data collection and analysis. Data obtained by each method fed into the other sources of data collection and analysis to provide a richer picture of the area under investigation. The technique of using information from one source to illuminate another is called triangulation (Banister, Burman, Parker, Taylor and Tindall, 1994).

Applying the above, the first research question was answered using the audit data alone, the second question used statistical analysis of data generated from audit and from qualitative interviews and the third and fourth relied principally on the qualitative interviews. The developmental nature of the qualitative interviews used the grounded theory approach, enabling aspects highlighted by an earlier interview or by the developing database to be considered within a later interview.

The findings, using the above approach, show that conclusions on the usefulness of Psychological reports drawn from the qualitative analysis (research question four), supported data obtained through the statistical analysis in the audit part of the study (research question one).

There is a danger that mixing research methodologies could result in inadequate analysis of any of the areas under investigation. In this study the researcher tried to avoid this difficulty by focusing clearly on issues of sentencing and refraining from the temptation to investigate other related clinical areas suggested by each of the data sets. Action research methodology is designed to facilitate exploration of research questions generated by the emerging data and the data sets in this study obtained by both audit and qualitative approaches have the potential to answer a great deal more than just the research questions for which they were originally intended.

Validity and reliability checks

The validity of the variables selected for use as a descriptive profile of the sex offender population under consideration were checked by a senior clinician with expertise in this field. In addition the variables overlapped with previous research of this nature (Maletzky and McGovern, 1991; Craissati and McClurg, 1995). The researcher's selection of one hundred variables, although comprehensive, are biased towards those deemed most influential to sentencing (after Craissati's, 1994, proposed factors influential to sentencing). It is likely that other variables (not included or considered) could be equally valid for inclusion in a descriptive profile and also highly associated with sentencing outcome.

Information in case files provided material from a number of different sources (clinical and legal documentation) allowing audit to generate a comprehensive

profile. Whilst this procedure did not allow missing data to be clarified with the clients concerned, it facilitated objectivity by not relying on either the client's, victim's or professionals' perspectives alone, each of which may be considered to be motivated by different objectives.

Interrater reliability checks were made on five case files to ensure that the researcher's selection of relevant characteristics were accurately chosen and recorded. The interrater reliability was 97.97 percent. This high figure would be expected from an audit study. Errors made concerned the following subjectively defined variables: three offender's relationship with their victims (discrepancy between acquaintance and step-father); the employment stability of two perpetrators (whether defined as 'some' changes or 'frequent' changes); the marital status of one perpetrator's parents (his father was biologically his grand-father) and a discrepancy regarding whether two perpetrators obtained psychological help as adults (their help was provided by specialist alcohol services). The errors in objective factual categories were one instance in which there was a discrepancy in accounting for; all the psychological problems the perpetrator claimed to be suffering at the time of the offence, the number of childhood trauma's experienced by one man and one disagreement about whether a perpetrator used pornographic material or not. The 2.03 percent error rate found in this study might have been reduced by the researcher providing more precise coding definitions with the variable schedule. For example information about time, locality or stability of relationship indicating when a perpetrator, who is in a relationship with the victim's mother, would be coded as step-father to the victim and when he would be coded as an acquaintance.

5.2 Discussion and implications of results

5.21 *The descriptive profile of the sexual offenders under investigation*

The profile was divided into the five categories adapted from Craissati's (1994) proposed factors influential to sentencing. This means of separation broadly followed the presentation of material which one would wish to find within Psychological reports for the courts (Benn and Brady, 1988) about individual sexual offenders. This method of describing the findings will be continued for clarity, although the researcher recognises that some variables could be deemed to overlap categories. Case-file vignettes demonstrating the variable combinations are provided (Appendix 1) to bring realism back to an otherwise empirical study.

Perpetrator's relationship and psychosexual history

The mode findings of the participants' relationship and psychosexual history (Graph 1) suggest that the population investigated deviates little from what might be expected of a non-sexual offender population. Craissati and McClurg's (1995) comparison of sexual offenders with offenders convicted of violent and acquisitive crimes showed no significant difference in relationship history characteristics. A non-offender control group would be desirable to investigate this further, although the researcher recognises that it would be extremely difficult to find a group sufficiently matched on other variables for adequate comparison. The similarity of these groups of characteristics to the general population may help explain the frequency of CSA occurrence and the disbelief that often follows accusations of such offences, because this research, amongst others (Maletzky and McGovern, 1991)

shows that many perpetrators are heterosexual married men with no difficulty sustaining adult partnerships or friendships, rather than the anti-social, loner stereotype commonly portrayed in the media.

Perpetrators family background

On the face of it the results of this study indicate that most of the perpetrator's had stable parenting experiences in their childhood (Graph 2). The researcher's knowledge of the case-files from which data was obtained would actually suggest that inclusion of a category for absent parent (not due to divorce or death) might have generated a more accurate picture of the material. Often the absence of a parent was due to work commitments, other relationships and either over involvement or emotional distance of one parent. The researcher began data collection of this variable using the categories 'together-happy' and 'together-unhappy' to describe the parent's relationship but it was frequently unclear whether distance described between the parents could be regarded as having a positive or negative effect on the parents or children, so the categories were merged. Previous data investigating the family background of different types of offenders suggests that there is no difference in terms of the percentage whose parents remained together, or parted, during their childhood (Craissati and McClurg, 1995).

Perpetrators history of abuse and trauma in childhood

The characteristics relating to the perpetrator's history of childhood abuse and problems was suggested by Craissati and McClurg (1995) as indicative of factors differentiating perpetrators of sexual crimes from other offenders. Dwyer and Amberson (1989) further proposed that combinations of these childhood experiences

could differentiate sexual offenders from the wider, non-offending population. The results in this study (Graph 3) show that approximately half of the participants had experienced CSA and Dwyer and Amberson's (1989) research suggests that pre-treatment disclosure figures are likely to underestimate the actual percentage of CSA experienced. Given the paucity of research into sexual offending perpetrated by females and the fact that no female sexual offenders were referred to this department during the four year period in which data was collected and audited in this study it is interesting to find that thirteen percent of participants who experienced CSA stated that they were abused by male and female perpetrators and a further seven percent solely by females.

Figures for emotional neglect and physical abuse (Table 6) experienced are similarly high in this population and in addition most of the perpetrators identified at least one form of childhood difficulty, the most common being bullying from peers. Other difficulties exhibited such as friendship difficulties, stealing and aggression (see appendix 10 for full range of categories) may indicate inadequate early attachment experiences and/or ongoing dysfunctional or abusive family circumstances (Calam and Franchi, 1987).

Given the level of childhood difficulties experienced by these participants the researcher was interested by the relatively small number of participants who had had contact with Psychological services in childhood. It is possible that earlier interventions to reduce the distress experienced and exhibited by these participants as children may have impacted the likelihood of their subsequent offending

behaviour. The cluster of variables differentiating this population in childhood indicates that additional resources could be usefully directed towards this aim.

It is possible that these offenders may have tried to seduce the professionals assessing them in order to gain a sympathetic recommendation for the Court. However, it was notable to the researcher how frequently the information in case files suggested that the offender had down-played their experiences and reframed very dysfunctional family and peer relationships and experiences as 'normal' or positive. Reframing in this manner frequently functions as a coping mechanism and may explain in part sexual offenders' common failure to recognise, or skill in minimising, the damage their behaviour as an adult has on their child victims.

Perpetrators education and work history

In line with the aforementioned childhood problems characteristic of this population it is perhaps not surprising that such a large percentage left school prior to or aged sixteen and a further third attended Special Needs or Approved schools (Graph 4). These findings are consistent with other research (Bard et al, 1987 and Maletzky and McGovern, 1991), although a far higher percentage in this study had failed to obtain qualifications than in Dwyer and Amberson's research (1989). Despite these educational limitations most of the participants were literate and seventy-four percent were employed most of the time.

The participant's in this study had held a large range of jobs (Appendix 10). Those most frequently cited as the participant's main employment were driving jobs such as lorry driving, taxi driving or delivering goods and employment as a security

guards. This might just reflect availability of jobs for people with the aforementioned qualifications and background but may also reflect the preferred lifestyle of those employed. Much of the work of both drivers and security guards involves unsociable hours, so relationships with family and friends may be less easily maintained. In addition the perpetrators partner may be working at different hours, facilitating their unsupervised access to the children, in the role of prime caretaker. Furthermore, particularly for jobs involving driving, the perpetrator might easily target and access potential victims over a wide area, should this be his style of offending, reducing the likelihood of his offending being discovered. The researcher acknowledges the speculative nature of the links between the sexual offenders jobs and their offending behaviour but clear and distinct patterns of sexual offending could be seen to be facilitated by different types of employment. Future research could valuably investigate whether (and how) a perpetrator's employment helps maintain his sexual offending behaviour.

Perpetrators forensic history

Due to the methodological differences in research on sexual offenders it is difficult to adequately compare studies. For example this study audited participants' previous convictions and Maletzky and McGovern's (1991) study gathered data about their previous charges. Nevertheless these two areas overlap to some degree and the percentages with charges or convictions including sexual offences were, in both studies, almost equal to the number with previous convictions or charges that were non-sexual (Graph 5). Mair (1993) cautions that any study of previous convictions will underestimate the number of offences actually committed, particularly when considering sexual offences. The population used by Craissati (1994) were a smaller

percentage of the same participants used in this study which found that as referrals continued to be processed the percentage of characteristics representative of sexual offenders' forensic histories was maintained.

Clear distinctions have been made in the typologies of sexual offenders between those who have a number of previous convictions and those without such a history (Knight and Prentky, 1990). Whilst not directly investigating these typologies within the investigative questions of this research links may be expected between those with longer histories of offending, the nature of their sexual offences and their increased likelihood of receiving custodial sentences. Future research could ascertain by statistical analysis of the data collected the existence of such relationships.

Perpetrators use of alcohol and drugs

No clear evidence was found in the files audited to suggest a high relationship between alcohol and drug problems and sexual offending (Table 8). However, whilst not deemed as representing a problem to the individuals the data does not preclude the use of alcohol as a disinhibitor, facilitating the offender to commission sexual acts against children.

Information about the index offence

Information gathered about the relationship between the perpetrators in this study and their victims (Table 10) should be considered with caution in view of the interrater reliability discrepancies identified for this variable. Although it is likely that categorisation within the study was consistent it can not be assumed that

another researcher would categorise relationships in the same manner. The researcher used marital status of the victim's mother and abuser or cohabitation for longer than a year as the basis for deciding whether a perpetrator should be classified as an acquaintance or a step-father. Other categories of relationship within this variable are deemed to be accurate.

The other recorded characteristics of the index offence: number of victims; the duration of abuse (Table 9); the form of abuse (Table 11); the use of coercion (Table 12); the location of abuse and number of perpetrators involved (Graph 6), depict a range consistent with other profiles of detected sexual offenders (Craissati and McClurg, 1995). It is particularly interesting to consider the difference between the mode duration of abuse (one off/few occasions) and the mean (1.8 years) indicating that there was a significant number of victims being abused over a long period of time, distinct from the higher percentage who were victims of sporadic sexualised contact or attacks. This may represent the often stated (although challenged; Abel, Becker, Cunningham-Rather, Mittleman and Rouleau's, 1988) distinction of the incest father (or abuse by a step-father) and the more opportunistic contact by acquaintances, other relatives and strangers. Further statistical analysis to look at correlations between these variables would be needed to determine this finding. Most of the offences were carried out at home (perpetrators or victims) indicative of the level of trust developed through the grooming process (of children or their parents) such that many perpetrators gained unobserved or blindly trusted access to the child.

The sexual offender's grooming procedures are aimed at deterring victims from disclosing their experiences and facilitating their co-operation. A high level of coercive techniques were identified within this population of sexual offenders. The most common technique in this sample was use of bribery and other 'on the face of it' non-threatening means. Many of the victims spoke in their statements about the power of such techniques: they induced feelings of guilt, the belief that they were themselves partly to blame for their own abuse and for some, a desire for the attention and 'favouritism' that accompanied their experiences, despite a desire also for the sexual acts themselves to stop.

Information about the victims

By comparison with other areas of data collection within this study limited data was collected regarding victim demographics, although data collected about the index offences necessarily generated data about the victims. This data collection bias reflects the fact that case files were drawn from psychological referrals regarding the perpetrators.

The ethnicity of the victims was found to be even less frequently recorded than that of the perpetrator. It is likely that the victim's ethnic background was not generally considered clinically relevant since the department from which these files were drawn does not undertake therapeutic work with the victims. In a minority of cases where the perpetrator acknowledged that his victim choice was influenced by ethnicity both the perpetrator's and the victims' ethnic origin was stated. It may be useful for this information to be gathered routinely in order to investigate the possibly wider presence of ethnicity influencing victim choice.

Much investigation has focused on the age of victims chosen by perpetrators such that it has become a key aspect of determining typologies of sex offender sub-types (Harry, Pierson and Kuznetsov, 1993) and was the sole exclusion criterion for cases audited in this study. Harry et al (1993) suggest that there are significant differences between those who sexually abuse pre or post pubescent children in terms of: motivation; nature of the abuse; relationship with the victim and duration of abuse. Of course each may be linked by other variables such as choice of victim gender, availability and likelihood of victim disclosure. Visual analysis of the raw data obtained in this study suggests no clear distinction between perpetrators choice of victim age since most perpetrators offended against more than one victim and there was a clear range of ages in their victims.

The majority of offenders in this sample showed a clear gender choice in their victimisation, with sixty-five percent only offending against girls and 22.2 percent only abusing boys. This ratio is reflected by previous studies (Greenland, 1984 and Maletzky and McGovern, 1991). This finding may be surprising since the participants of many previous studies were from either incarcerated or community treatment populations which would be expected to respectively show higher percentages of those convicted of homosexual and heterosexual offences. As with the age of victims there are a number of factors highly associated with the gender choice which may influence sentencing decisions, for example the perpetrators relationship with the victim and the form of abuse carried out. However, Walsh (1994) found that perpetrators of homosexual offences are over six times more likely to receive a custodial sentence than their heterosexual counterparts, when all

associated variables have been taken into consideration. It is likely that this study accurately reflects the ratio of homosexual and heterosexual child abuse perpetrated by those whose offences are discovered because of the early stage in legal proceedings in which many of the cases were referred to the service.

The data obtained from this audit would facilitate investigation of different variables' relationships with victim gender or age by correlation statistical analysis using either of these variables as the dependent variable.

Information about the legal proceedings

Information about the charges and subsequent Index convictions of those audited shows that most people were charged with and convicted of more than one offence. The different offences (or counts) sometimes relate to the same victim on different occasions and sometimes to different victims (see appendix 1). On those occasions where the frequency or duration of abuse was great the perpetrator is tried on only a summary selection of their offences. The results of this study additionally found that the ratio of offences of a penetrative or non-penetrative nature changed by approximately ten percent from charge to conviction indicating that in some instances perpetrators had pleaded guilty to lesser non-penetrative offences and the penetrative offences had been either been left on file, not proceeded with or on occasion the perpetrator had been tried and found not guilty of the more serious offence.

The finding that most offenders were charged and convicted of Indecent assault, followed by the frequency for rape, buggery, gross indecency and then a range of

other offences of various degrees of seriousness is consistent with most other studies in this field (Mair, 1993; Craissati, 1994). Most of the perpetrators in this study received a custodial sentence for their index offence(s) reflecting the seriousness with which sexual offences of all types are regarded. Approximately thirty-five percent of those audited had already been sentenced to prison for their index offence(s) at the time of referral to this service. The post-custody referral rate is particularly positive because it suggests an awareness on the part of the Parole Boards and sometimes the perpetrators themselves that the potential for reoffending remains and may even have been increased (Card, 1991) until the perpetrator has gained some understanding and control over his motivations for acting out in this manner.

Additional information pertinent to decisions about treatability

The researcher recognises that all the aforementioned characteristics, together and many independently, help the clinician formulate an understanding about the offender to assess whether they are suitable for, and likely to benefit from, a treatment programme. This information is considered in view of base-rates regarding reoffending and the perceived risk from the individual being assessed. Nevertheless the Psychologist needs to consider additional features of the offender which are pertinent to the decisions made by all Clinical Psychologists when recommending a treatment plan and the researcher considered that these characteristics merited a distinct category (Graph 7).

Fundamental information about the presence and degree of any disabilities is necessary in relation to the perpetrator's ability to attend, sustain and make use of treatment programmes. Disabilities were identified in approximately twenty-one

percent of this population. If, all other things considered, a treatment option is being recommended it must be tailored to meet the individual's needs. This may require additional resources at an existing service or recommendations for specialist service input or consultation between the Forensic and other services.

If the perpetrator reports suffering from any psychological problems in adulthood, his capacity to deal with these difficulties whilst regularly attending an offence focused programme needs to be assessed. Over half of the perpetrators in this study reported such problems. Clinical experience suggests an increased risk of attempted or successful suicides in sexual offenders, particularly if they get in touch with their own past abusive experiences and take increased responsibility for the damage they have caused to their victims. This is considered a necessary part of successful treatment programmes. In some circumstances a second service may need to be involved in treatment to look at other ongoing difficulties or the perpetrators sexual offending may be better dealt with on an individual basis in order that the therapist can closely maintain alertness to the perpetrators overall psychological functioning.

The Forensic Psychology service unlike many other Clinical Psychology specialities, regularly has to ensure that treatment is offered to clients who neither consider they need help nor wish to attend. Treatment is often a condition of freedom (Brown, 1985). The person's attitude to their offences and their motivation for treatment needs careful assessment to ensure: they can be offered the most suitable options for their benefit; real risks to others have been considered should they remain in the community; to prevent sabotage of treatment programmes. Denial of offences is particularly high amongst sexual offenders in comparison with other criminals

(Jackson and Thomas-Peter, 1994) so this alone should not be an exclusion criterion for treatment. Similarly a wish to avoid prison could be considered as normal for any criminal population so should not be an exclusion criterion.

Within any Psychological assessment the Clinician assesses the person's psychological mindedness which relates to their ability to use the therapeutic process to understand their behaviour so they can begin the process of making consistent changes to previous patterns of functioning. The Forensic Clinical Psychologist needs to combine information about all these areas when making recommendations for treatment. Within this study (Graph 7) recommendations for treatment suitability were positive for over eighty percent of the perpetrators. However, these recommendations were tempered for some perpetrators and the reports clarified the reasons: for example, the seriousness of some of the offences reduced the likelihood of the community treatment option being made available to some perpetrators, at least until they had served a term of imprisonment.

5.22 Exploration of the factors influencing sentencing outcome with regard to five categories of relevant data.

When asked how they made their sentencing decisions in cases of CSA each of the Judicial participants stated a number of factors that they personally regarded as important in addition to a number of factors on which the law requires Judges to make judgements dependent. The factors influencing sentencing decisions, deemed personally salient for each of the Judges, were selected out for statistical analysis.

Analysis could only be undertaken on those factors for which data had been collected within the audit study. Correlation analysis was undertaken to determine if the Judges' opinions about factors influencing their sentencing decisions were supported by the facts of specific cases. As might have been predicted from previous research into Judicial decisions (Craissati, 1994), the selected variables came from each of the five categories on which the case-file data had provided information. It is noteworthy that the cases of the perpetrators audited had not been presided over by the Judges participating in this research, (although this situation could have arisen inadvertently and would not have been detectable from the information audited).

A similar process of determining the characteristics that might be considered influential to sentencing outcome, from a clinical perspective, was also undertaken by the researcher. There was considerable overlap between the variables selected by the researcher and the Judges (Tables 16-20). The main differences in the variables selected were in the category of offender characteristics. The researcher selected many more variables than did the participants interviewed. This difference may be accounted for by the relevance that details about a person's background have in helping clinicians develop their formulations and subsequent treatment decisions. This difference would support the comments of some of the participants that Psychologist's reports often gave more background information than the Judges considered relevant for their purposes. However, the researcher accepts that this selection was a personal bias and it cannot be assumed that other clinicians would make the same conceptual judgements.

Results indicated significant association between sentencing outcome and variables related to the nature of the index offence, legal characteristics of the case and clinical decisions about treatability. All of the variables which were found to have significant associations with the dependent variable (outcome) had been selected both by Judges and the researcher (legal and psychological perspectives). No significant association was found between specific characteristics of the offender or the victims and the sentencing outcome. This suggests that in those instances where an offender presents a particularly traumatic past to evoke a sympathetic response from professionals within the Criminal Justice System, it is unlikely to significantly influence their Court disposal.

Ten variables were found to be significantly associated with whether the perpetrator received a community or custodial sentence. These variables were further analysed using Logistic Regression to test the variance of each of them in predicting the sentencing outcome (when the other variables were taken into account; Table 23). The psychological report recommendations were found to be the most predictive of sentencing outcome when all other tested variables had been taken into account. This finding indicates the importance of clinicians making very careful assessments, ensuring that the recommendations are well thought through, clearly reported and that they follow naturally from the content of the report since it suggests that psychological reports may be influential to the Judges decisions about the perpetrator's disposal. This finding cannot be generalised to psychological reports about other legal issues nor to Psychologist's opinions about sexual offenders who do not get referred for psychological assessment. It does however, suggest that the

Psychologist's undertaking the reports within the case-files audited made recommendations which were realistic, acceptable to and in line with Judges sentencing decisions.

5.23 Exploration of the factors Judges recognised as influencing their decisions about sentencing sexual offenders

In addition to characteristics of the seriousness of the cases before the Judges a number of other factors were recognised by the Judges to influence their sentencing practice. Those influences (internal and external) generated from qualitative interviews with the judges were: weightings given to retribution, protection of the public, rehabilitation and deterrence (internal and external influences); Judges beliefs about the causes underlying sexual offending (a factor mainly influenced by internal belief systems) and influences from the media; Government legislation; other professions and the general public (external influences).

Internal influences

Research into sentencing decisions (Carroll et al, 1987) suggests that Judges internal belief systems about the purposes of sentencing are most influential in their sentencing decisions, particularly in relation to sexual offenders (Davis et al, 1993). Judicial attitudes have been categorised as falling on a continuum of liberal to conservative views which is proposed to be associated with their weighting given to rehabilitation or retribution (Carroll et al, 1987). Participants in this study were asked to ascribe weightings of importance to the factors of retribution, rehabilitation,

protection of the public and deterrence. Their responses (Table 15) indicate a bias in favour of retribution as the primary purpose of sentencing, followed by protection of the public and rehabilitation on equal rankings (ascribed by the researcher on the strength of participants' comments when a ranked order was not directly stated). Deterrence was ranked fourth but was only positively stated as an aim of sentencing by one participant (Judge 5). These findings suggest a range of opinions were held by the participants in this study. One might anticipate a similar range within the wider population of Judges in Britain but this assumption cannot be generated from this selected sample. The order of ranking retribution over rehabilitation as a sentencing goal does reflect the finding that over half of the sex offenders audited received a custodial sentence. The argument for protection of the public was presented both as a reason for custodial and for community treatment programmes and whilst most participants favoured a combination of these, all participants agreed that extending prison sentences to allow treatment in prison was not the just solution. The more favoured option presented by one participant was for community programmes with residential (amongst other) restrictions. Research continues into the efficacy of such residential projects (Beckett, Beech, Fisher and Fordham, 1994) and service developments and resources should continue to support projects that offer alternatives to custody with the restrictions necessary to ensure public safety. Psychologists could add particular skills to such developments in the form of offering consultancy and/or out-patient work on a sessional basis to sex offenders resident in bail or probation hostels.

Judges beliefs about the causes of sexual offending ranged along a continuum of madness (external trait causality) to sheer "evil" (internal state causality).

Consideration was given to factors in an offender's background that might explain his subsequent behaviour and some participants demonstrated knowledge of published sexual offender typologies but the overwhelming 'opinions' suggested that the Judges had no clear understanding of why people became sexual offenders. It was this desire for explanations regarding the individuals who came before them in court that was the reason most often cited by participants why they found Psychological reports to be particularly useful.

External influences

All the participants stated an awareness of public and media influences on their sentencing decisions. One Judge spoke of the public scrutiny from the victim's and offender's families who may be represented in the public gallery within the court, others of public opinion as represented (and often misrepresented) by the media. As a consequence of such influences participants stated a need for care and clarity in their summing up and sentencing comments in order to justify the rationale for their sentencing decision to others if necessary.

Participants were largely opposed to the proposed Government Bill stipulating minimum sentences for some offences and indeterminate sentences for recidivist rapists, although some accepted the reasoning for the Government's intervention. Clear reasons were given in opposition and each participant provided an example where they deemed the proposed Legislation would result in unjust sentences. Whilst recognising that Judges sentencing decisions were bound to differ the

overwhelming feeling was that sentences needed to be based on the merits or demerits of individual case circumstances.

Influences from other professions were met with more of a mixed reaction by these participants primarily due to inter-agency disagreements which can confuse both the Judge and Jury. Judges were generally favourable to receiving presentations from other professions and indeed one participant attends regular presentations about the progress of a local community sex offender treatment programme. Professionals within Forensic services, including Psychologists, should direct more research into investigating the efficacy of their treatment programmes, particularly those offered as alternatives to custody. In addition access to this research (via presentations or publication) should be made easily available to other professionals within the Criminal Justice System to increase understanding of the underlying reasons for the offences committed and where applicable, to increase Judges confidence in the Justice, and long term benefits for public safety, of making such sentencing decisions.

5.24 An exploration of Judges opinions about the impact and usefulness of psychological reports in legal proceedings regarding sexual offenders

Information about the impact and usefulness of Psychological reports in legal settings was explored within both the audit and qualitative parts of this study. Statistical analysis using Logistic Regression indicated that the Psychological report recommendations in cases of sexual offending were the most predictive variable regarding sentencing outcome, when all other selected variables were taken into

consideration. This finding suggested that the recommendations made within such reports may be influential in aiding Judges decisions about sentencing. The Judges interviewed in this study confirmed this hypothesis; within those cases in which a psychologist's report is requested.

The regularity with which Judges were asked to support a request for a Psychological report differed widely within these participants. In view of the selection procedure used to recruit the participants it cannot be assumed that this pattern of difference would be reflected in a wider sample. However research into the role of Psychologists in legal proceedings (Gudjonsson, 1996a) suggests that there has been a significant increase in requests for court reports nationally over the last decade. All participants in this study said that they would always support requests for psychological reports in cases of CSA, although two participants claimed to receive only a small percentage of requests in comparison to the number of child abuse cases over which they presided.

The least helpful aspects of Psychological reports were considered to be the background section containing usually far too much information, the relevance of which was questioned by Judges in relation to the current offence. The most helpful aspect of reports were the summary, recommendations and assessment of the risk of reoffending. Participants stated that they particularly found these sections helpful when sentencing, even if they were not necessarily going to follow the recommended course of action.

5.3 General Implications of these findings

Very little research to date has been undertaken into the role Psychologists play in influencing sentencing decisions. This research suggests that Psychologists can have a significant and valued role, as perceived by Judges, through the preparation and presentation of clear and concise assessment reports. This study only focused on reports regarding sexual offenders and further research is needed to determine whether their reports are accorded equal importance with regard to crimes of other types. It is possible that the underlying motivations for other types of crime are believed to be more clearly understood thus not requiring psychological assessment.

There has been a clear shift in the nature of court work for which Psychologists are being requested, such that reports are no longer restricted to psychometric assessments or areas of mental illness (Gudjonsson, 1996b). Report writing for courts is not the sole remit of the Forensic service and since reports should be aimed at their intended audience, training resources could usefully be put towards developing a presentation package to help Psychologists tailor their (often considerable) report writing skills into those specifically required by a legal audience. The results of this research clearly indicate that well argued yet concise reports have greatest impact and influence.

The Forensic Psychologists increasing work with sexual offenders has strengthened links with other professions, notably the probation service, within the Criminal Justice System. Multi-agency consultancy and conjoint working can facilitate greater

opportunities for developing understanding and interventions aimed at reducing the risk of reoffending over a number of different types of crime.

The Government White Paper reforming some aspects of sentencing is due to be introduced in Autumn 1996. Should mandatory indeterminate sentences be introduced for those convicted of a second rape this will have major implications for the current out-patient work undertaken by Clinical Psychologists working in forensic settings with these offenders and child and adult settings with the victims. Participants in this study anticipate a rise in people pleading not guilty to rape charges should the proposed law be passed. Denial of the offences is likely to result in fewer requests for psychological assessments of the offender and thus necessarily fewer recommendations for treatment. Victims may be more likely to have to undergo the ordeal of a trial or have their experiences minimised in order that the offender be convicted on a charge not carrying a life sentence.

The findings of this study statistically validate trends and implications found in previous research (Craissati & McClurg, 1995) that the profile of those sexual offenders receiving custody is different from those receiving community sentences in the following characteristics: the form of abuse carried out; the use of coercive techniques in the offence(s) and the number of offences with which the offender is convicted. This study also found that the recommendations in the assessment reports prepared by Clinical Psychologists on sexual offenders are accurate in predicting the type of sentence and may have a significant influence in the sentencing process. This information has direct clinical implications with regard to determining the characteristics of the sexual offender population in prison and in the

community which may help service planning into tailoring treatment programmes more accurately to their likely participants with the ultimate aim of reducing the risk of further damage to potential victims and to the offenders themselves.

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Information from a sample of case-files in which there were judicial sentencing comments made regarding the perpetrator

Case number 1. (Parole assessment)

Summary details

Victim was his daughter, aged eight at onset, perpetrator was aged 43. Onset of sexual offending when second wife left, leaving him sole carer of five children. Duration of abuse was eight years. CSA initially involved fondling the victim's vagina and making her masturbate him until he ejaculated on her stomach, once or twice weekly. When the victim was 11/12 the perpetrator had full intercourse with her on an almost daily basis. Perpetrator had a serious drink problem and initially claimed not to be able to remember any incidents of sexualised behaviour with his daughter. He was convicted of Indecent Assault, Unlawful Sexual Intercourse and five counts of Incest.

"This was an outrageous case...It is clear to society that this is repulsive... To punish you for your wickedness and to deter others you will go to prison for four years on each count concurrent".

Case number 2. (Parole assessment)

Summary details

Victim was his step-daughter, aged six at onset, perpetrator was aged 23. He was married and they had two younger daughters both of whom were living at home at the time. The CSA involved full sexual intercourse and lasted for four years. The perpetrator associated the onset with a period of depression and financial stress. The perpetrator used physical force and bribery. He presented himself, at assessment, as a victim of circumstances and described a "special love" relationship with his step-daughter. He was convicted of three counts of Rape and three counts of Indecent Assault and sentenced to seven years imprisonment.

"These are very serious offences... you had the child in your care and you abused that trust. The only mitigating feature I can take into account is your guilty plea".

Case number 3. (Pre-sentence assessment)

Summary details

The perpetrator was convicted of two counts of Indecent Assault on a six year old girl. The perpetrator, aged 28, was a friend of the girls family. He fondled the girl on a few occasions in her own home using bribery as coercion. The victim alleged that digital penetration had occurred but the perpetrator denied this. The perpetrator had a learning disability and had attended special schools throughout his education. He drank alcohol quite heavily, lived with his family and was unemployed. He was not considered suitable for the community treatment programme because of the degree of his learning disability. He received a two year Probation order.

"I advise total abstinence because it would appear that [your] behaviour occurred as a result of drink. It will be very sad if you get into trouble again because of drink".

Case number 4. (Parole assessment)

Summary details

The perpetrator was aged 28 at the time of his index offences. His victims were three male strangers aged 18, 18 and 15 respectively. The perpetrator admitted targeting each of his victims, using verbal threats and a great deal of intimidation to get compliance from his victims. He also robbed each of his victims. The range of acts he carried out were fondling, masturbation and making one of the victims give him oral sex. All the offences were committed outside and he acknowledged aiming to humiliate his victims who were all of a different ethnic background to him (victims were Caucasian). The perpetrator lived with his mother, drank heavily and abused drugs. He feared that if he couldn't stop his sexual assaults on young men he may eventually kill someone. Psychological recommendations were for Special Hospital assessment or treatment within a custodial setting. He was convicted of three counts of Indecent Assault and three counts of Robbery. He was sentenced for seven years.

"I sentence taking into account the following...the offence is so serious that only a prison sentence is justified. Bearing in mind all the information, a longer sentence than usual is applicable as there is a great risk to the public... The length of sentence is affected by your plea of guilty... You can be helped to stop behaving this way if you are in custody".

Case number 5.. (Assessment once perpetrator was on parole)

Summary details

The perpetrator was convicted of offending against a boy aged eight and a girl aged four, when he was aged 41. Both victims were the children of a woman with whom the perpetrator lived part-time. Another child also lived in the home. The CSA lasted approximately seven months and involved masturbation of the boy and fondling, masturbation, digital penetration, full intercourse and buggery of the girl. The perpetrator partly denied committing the acts with which he was charged and partly denied responsibility. The perpetrator said he was depressed at the onset of the offences due to a previous relationship failure. Previous allegations of CSA had been made by one of his step-daughters from a previous relationship. His employment history was regular and stable as a driver. The perpetrator had no motivation for treatment.

"You have pleaded guilty to two counts of Indecent Assault on an eight year old boy; these are sample counts each being an example of two sets of offences over nine months where you were handling the boy's private parts in bed, and in his bath... I disregard other graver allegations....with a four year old girl you... assaulted her causing bruises and scratches... you did this with their mother in the house, this woman was vulnerable and you moved in with them and dominated all of them.... You have no previous convictions of a similar nature and you will receive substantial credit for your guilty plea, which means that these children have been spared appearance at these Courts.....thereforenine months for each of two counts of Indecent Assault and nine months for Cruelty, concurrent".

Case number 6. (Pre-sentence assessment)

Summary details

The perpetrator was aged 55 at referral. He was referred by Social Services post-custody. When the perpetrator was aged 12 his father died in an accident. The perpetrator described being spoilt by his mother with whom he maintained frequent contact. The perpetrator had been married twice, had six children of whom three lived with him at the time of this offence. The victim was his learning disabled daughter aged twelve. The abuse was discovered when she became pregnant. After initial denial he admitted having rubbed himself against her whilst ejaculating.

Social services suggested that regular full intercourse between the perpetrator and victim may have been occurring over several years. Charges were reduced at court to 1 x Indecent assault to which he pleaded guilty. He was sentenced to twelve months imprisonment.

The sentence took into consideration the following points: the evidence did not prove ongoing abuse; the judge could not sentence on speculation although he appreciated that Social Services had a number of difficult decisions and judgements to make in the future (re: continued contact); Mr xxx pleaded guilty...to indecent assault...showed great remorse...is a man of exemplary character in all areas of his life. Due to having served five months on remand the perpetrator only actually served six months.

Case number 7. (Pre-sentence assessment)

Summary details

The perpetrator's parents had been together throughout his childhood, but he described experiencing lots of emotional neglect and physical abuse. He was sexually abused aged eight by a male cousin who masturbated him, then later aged thirteen a similar form of abuse was perpetrated by a stranger.

The perpetrator (aged 37 at onset) abused his two daughters aged three years and eighteen months respectively. The abuse with his eldest daughter lasted approximately a year, involving masturbation and oral sex. It is not known how long the abuse of his youngest daughter lasted but it involved him putting his penis in his daughters mouth. The offences were discovered by the perpetrator's wife finding a video-tape of the aforementioned acts. The perpetrator had stable employment as a van driver. He was charged with Indecent Assault, 2 x Gross Indecency, Possession of indecent film and Possession of indecent photographs. He pleaded not guilty to most of these charges and they were reduced at trial to 1 x Indecent assault to which he pleaded guilty. The Psychologist believed his motivation for treatment was a wish to reunite with his family. He was sentenced to a Probation Order with a condition of treatment.

"...Sentenced on the basis of the powerful arguments put forward in the psychological report".

**Chair
Ethics Panel
David Salomons's Centre**

Dear

I understand that the Salomon's Research Ethics committee has stipulated as a precondition to the ethical acceptance of Paula Duncan's final year dissertation entitled:

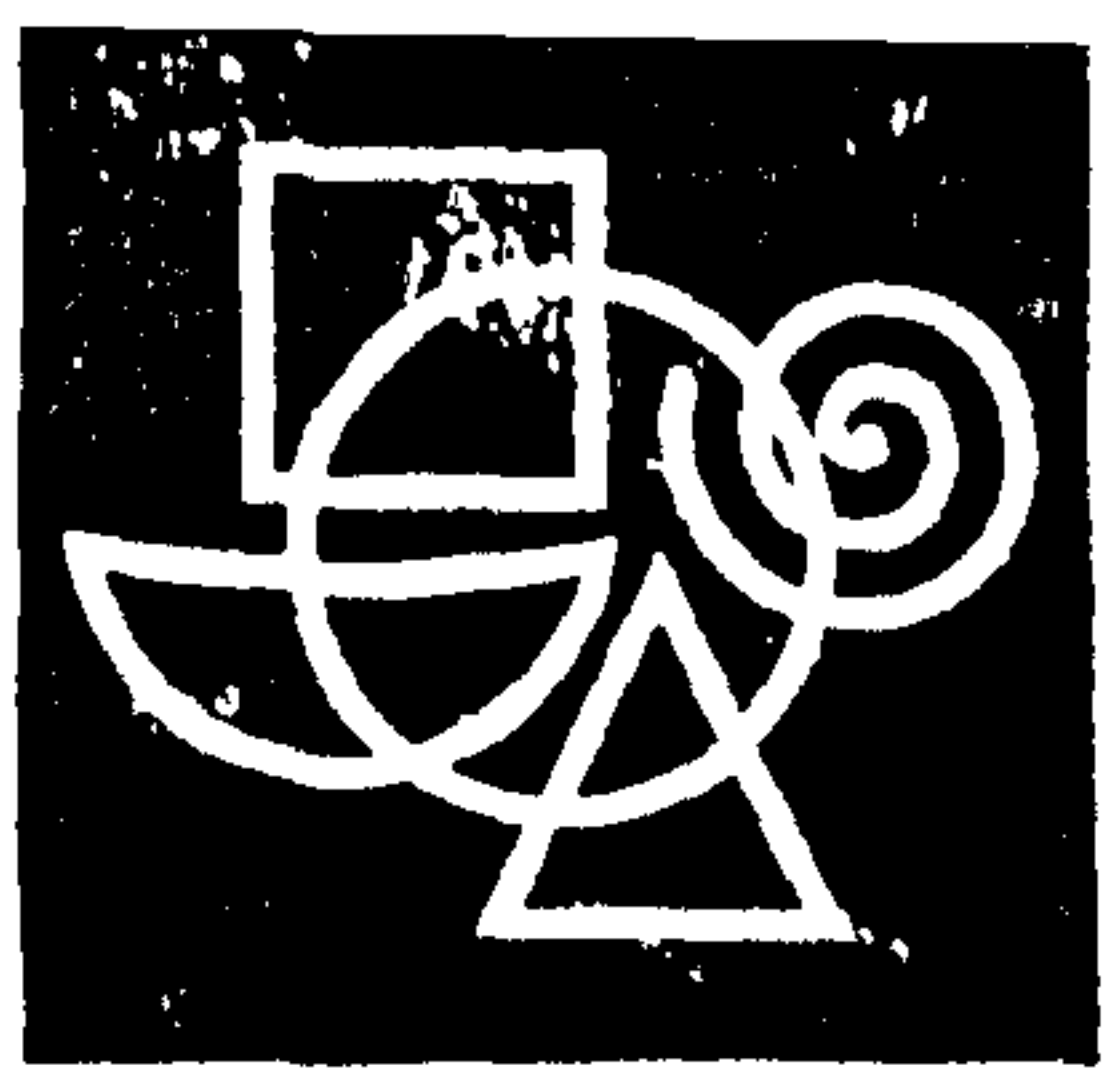
"An investigation of the factors affecting sentencing decisions regarding perpetrators of sexual offences against children. In particular an investigation of the impact and usefulness clinical psychology reports have in judicial decisions about sentencing sexual offenders."

that consent be obtained from relevant offenders within the _____ for use of their case histories. I confirm that the _____ understands that use of client files will be used for audit purposes only and that such aggregated data analysis will assure anonymity.

I can confirm, therefore, that myself and the Research Group do not require Miss Duncan either to disclose her research to patients or to require them to sign their permission to use their files. I add furthermore, that all clients who attend for sex offender assessment reports for court or parole purposes are informed at the assessment stage that material from their files may be used anonymously for research or audit purposes.

I trust that the Salomon's Ethics Panel will find this satisfactory.

Yours Sincerely



**SALOMONS
CENTRE**

Salomons Centre
David Salomons Estate, Broomhill Road
Southborough, TUNBRIDGE WELLS
Kent TN30 1EG

Telephone:	01892 515152	Our Ref:	AL/LT/075
Fax:	01892 539102	Direct Fax:	01892 518446
		E-mail:	t.lavender@salomons.org.uk

**Ms P Duncan
Salomons Centre**

21st May 1996

Dear Paula

Re: Research Dissertation - Ethics Panel Approval

Thank you for responding to the Ethics Panel's report. You have now clearly met all the conditions specified by the Ethics Panel and full approval is given.

The Panel was extremely interested in the research, wish you well with the project and look forward to hearing about the outcome.

Yours sincerely,

**Dr A Lavender
Chair
Ethics Panel**

His Honour

Psychology Department

May 1996

Your Honour,

The following letter regards the referral of sexual offenders by the courts to the Forensic Psychology Service for assessment and treatment. Specifically it regards the usefulness of pre-sentence psychological assessments and practices regarding sentencing sexual offenders.

I am a Final Year doctorate student in Clinical Psychology working within the Forensic Clinical Psychology Service at the [redacted] I would be most grateful if you could spare me approximately half an hour of your time, at your convenience, to answer some questions for inclusion in a dissertation regarding the above. The interview will focus specifically on your decision-making process when sentencing sexual offenders and whether you consider psychological assessment reports aid you to decide the most appropriate disposal for such offenders.

All information gathered will strictly be confidential and reported anonymously. I anticipate tape-recording all interviews in order to consider more accurately the information discussed in the meeting at a later time. All tapes will be destroyed once the project is concluded in October 1996. Ethics approval for this research has been obtained.

I shall provide each participant with a précis of what we discussed so this can be amended as necessary prior to inclusion in the dissertation. I shall forward the research findings to all interested participants once the dissertation is complete.

[redacted] suggested that you may have experience of the above and agreed to forward this letter to you. I would be most grateful if you could indicate to him whether or not you would be willing to participate. I can then contact you again and arrange a time to meet - at your convenience. I can also be contacted on [redacted] if you want further details about my research.

May I thank you in advance for your time.

Yours Sincerely

Psychologist

Crown Court

Miss Paula Duncan
Psychology Department

April 1996

Your Honour,

The following letter regards the referral of sexual offenders by the courts to the Forensic Psychology Service for assessment and treatment. Specifically it regards the usefulness of pre-sentence psychological assessments and practices regarding sentencing sexual offenders.

I am a Final Year doctorate student in Clinical Psychology working within the Forensic Clinical Psychology Service at the I would be most grateful
if you could spare me approximately half an hour of your time, at your convenience, to answer some questions for inclusion in a dissertation regarding the above. The interview will focus specifically on your decision-making process when sentencing sexual offenders and whether you consider psychological assessment reports aid you to decide the most appropriate disposal for such offenders.

All information gathered will strictly be confidential and reported anonymously. I anticipate tape-recording all interviews in order to consider more accurately the information discussed in the meeting at a later time. All tapes will be destroyed once the project is concluded in October 1996. Ethics approval for this research has been obtained.

I shall provide each participant with a précis of what we discussed so this can be amended as necessary prior to inclusion in the dissertation. I shall forward the research findings to all interested participants once the dissertation is complete.

I have spoken to Senior Probation Officer, who agreed to forward this
request for participation on to you. I shall contact her again during May 1996 to arrange a time to meet with you if this is agreeable to you. Please contact me on 01322 526282 if you do not wish to participate or if you want further details about my research.
May I thank you in advance for your time and the value that this will add to both our professions.

Yours Sincerely


Paula Duncan
Psychologist

Jackie Craissati
Head of Forensic Clinical Psychology Service

May 1996

Your Lordship

The following letter regards the referral of sexual offenders by the courts to the Forensic Psychology Service for assessment and treatment. Specifically it regards the usefulness of pre-sentence psychological assessments and practices regarding sentencing sexual offenders.

I am in my eighth and Final Year of studying psychology and am currently undertaking my doctorate in Clinical Psychology. I am working within the Forensic Clinical Psychology Service at a medium secure unit. I would be most grateful if you could spare me approximately half an hour of your time, at your convenience, to answer some questions for inclusion in a dissertation regarding the above. The interview will focus specifically on your decision-making process when sentencing sexual offenders and whether you consider psychological assessment reports aid you to decide the most appropriate disposal for such offenders.

All information gathered will strictly be confidential and reported anonymously. I anticipate tape-recording all interviews in order to consider more accurately the information discussed in the meeting at a later time. All tapes will be destroyed once the project is concluded in October 1996. Ethics approval for this research has been obtained.

I shall provide each participant with a précis of what we discussed so this can be amended as necessary prior to inclusion in the dissertation. I shall forward the research findings to all interested participants once the dissertation is complete.

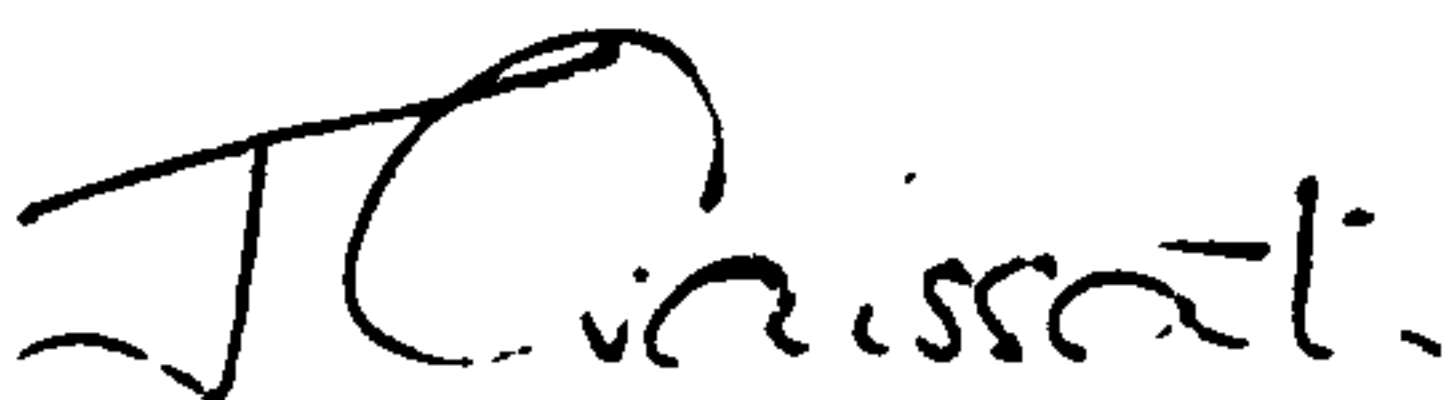
I would be most grateful if you could indicate whether or not you would be willing to participate and I shall Liaise with Probation Officer at the Central Criminal Court, to confirm your participation and to arrange a time to meet at your convenience in the near future. I can be contacted on if you want further details about my research.

May I thank you in advance for your time.

Yours Sincerely



Paula Duncan
Psychologist



Jackie Craissati
Head of Forensic Clinical Psychology Service

Research title : An investigation of the factors affecting sentencing decisions regarding perpetrators of sexual offences against children. In particular an investigation of the impact and usefulness clinical psychology reports have in judicial decisions about sentencing sexual offenders.

Researcher : Psychologist in Clinical Training

To whom it may concern

I understand that my participation in this research will involve an interview of approximately half an hour. I understand that I will subsequently be sent a précis of the interview which I can amend as necessary prior to the material's inclusion in the research report. Although the data will be evaluated and reported I understand that I shall remain anonymous throughout the report.

I agree that the aforementioned interview be tape-recorded on the understanding that all tapes will be destroyed once the project is concluded.

Signed Date

Signed (researcher) Date

<p>• DATABASE NUMBER</p>	<p>• CHALLENGE PROJECT NUMBER</p>	<p>• Perpetrator's age at time of assessment</p> <p>State age</p>	<p>• Perpetrator's ethnic origin</p> <ol style="list-style-type: none">1. British/European2. Afro Carib/West Indian3. Middle Eastern4. Asian/Indian5. Mixed
<p>• Perpetrator's marital status at time of offence</p> <ol style="list-style-type: none">1. Married2. Divorced3. Separated4. Other relationship/cohab5. Single	<p>• Vulnerability in perpetrator</p> <ol style="list-style-type: none">1. Learning Disability/specific2. Physical Disability3. No obvious disability4. LD. and Phys.5. Visual Disability/other	<p>• Vulnerability in perpetrators current partner ?</p> <ol style="list-style-type: none">1. LD2. Phys. disability3. No known vulnerability4. History of psychiatric illness5. History of chronic mental illness6. sexually abused7. physically abused8. Not applicable9. Multiple of above10. Health probs	<p>• Number of times perpetrator has been married</p> <p>State number</p>
<p>• How many (biological) children does the perpetrator have ?</p> <p>State number</p>	<p>• Number of children (under 16) living with the perpetrator at the time of the offence</p> <p>State number</p>	<p>• Perpetrator's employment at the time of the offence</p> <ol style="list-style-type: none">1. Unemployed2. Part-time/evening/casual3. Manual labour4. Skilled manual (training/caring professions/forces)5. Self employed6. Business/clerical	<p>• Perpetrator's employment history</p> <ol style="list-style-type: none">1. Regular and stable2. Frequent and changing3. Often unemployed4. None (or almost)5. House husband6. Not applicable

• Marital status of perpetrator's parents in childhood

1. Divorced
2. Separated
3. Together-happy
4. Together-unhappy
5. Never knew mum
6. Never knew dad
7. Mum dead
8. Dad dead
9. Both dead
10. Adopted - contact with parents (or cared for by other)

11. Adopted - no contact with real parents
12. No parenting memories
13. Local authority care throughout most of childhood.

• Perpetrator's age when parents divorced/died/child removed/significant change

State age

- or
98. Not applicable
 97. Very young (age not stated)
 96. Birth

• Contact with family

1. none
2. Infrequent
3. Regular
5. Live with them

• Perpetrator's education

1. Special school/institution (at any point)
2. ≤ 16
3. ≤ 18
4. 18+
5. Approved school (at any point)
6. None

• Is the perpetrator literate?

1. No
2. Yes
3. Partially

• Qualifications obtained by the perpetrator

1. None
2. Degree/+/equivalent
3. A'levels/equivalent
4. >3 O'levels
5. <3 O'levels
6. Practical quals.(e.g. painting, music).
7. City & Guilds

• Perpetrator's contact with friends

1. None
2. 1/2 years
3. 1/month
4. >1 /week
5. No difficulties reported
6. Few friendships

• Age when perpetrator had first girl/boyfriend

State age

- or
1. Never

• Number of long term relationships (cohab 1yr+)

State number

• Adult homosexual contact

1. Yes-one
2. Yes-few
3. Yes-many
4. No

• Perpetrators stated/implied sexual orientation

1. Heterosexual
2. Homosexual
3. Bi-sexual
4. Celibate
5. Not stated or clear
6. Fears homosexuality

<p>•Frequency of pornography use (either stated or part of witness statements)</p> <ol style="list-style-type: none"> 1. Some 2. Lots 3. Occasionally 4. Never/not known 	<p>•Type of pornography used</p> <ol style="list-style-type: none"> 1. None 2. Soft - adult (mags/vids) 3. Hard - adult (mags/vids) 4. Snuff movies 5. Internet 6. Other 7. Self made (photo's/vids) of children 8. Soft - child (mags/vids) 9. Hard - child (mags/vids) 10. Soft (child + adult) 11. Hard (child + adult) 	<p>•Emotional neglect in perpetrator's childhood</p> <ol style="list-style-type: none"> 1. None 2. Some 3. A lot 	<p>•Physical abuse in perpetrator's childhood</p> <ol style="list-style-type: none"> 1. None 2. Some 3. A lot
--	---	---	--

<p>•Sexually abused in childhood</p> <ol style="list-style-type: none"> 1. None 2. Mother 3. Father 4. Step-parent 5. Sibling 6. Other relative 7. Acquaintance - peer 8. Acquaintance - not peer 9. Stranger 10. Number of different abusers 	<p>•Form of sexual abuse in childhood</p> <ol style="list-style-type: none"> 1. Fondled 2. Masturbation 3. Oral sex 4. Digital penetration 5. Buggery 6. Gross indecency 7. Full intercourse 8. Not applicable 9. Exposure 10. Attempted buggery 	<p>•Age of perpetrator when first sexually abused in childhood</p> <p>State age</p> <p>or</p> <ol style="list-style-type: none"> 98. Not applicable 97. <5 (if not stated more clearly) 96. 6-10 (if not stated more clearly) 	<p>• Gender of abuser in perpetrator's childhood</p> <ol style="list-style-type: none"> 1. Female 2. Male 3. Both males and females 4. Not applicable
---	--	---	---

<p>•Duration of sexual abuse in childhood (Years)</p> <p>State years</p> <p>or</p> <ol style="list-style-type: none"> 96. Few 1 off incidents 97. 1 off incident 98. Not applicable 	<p>• Aware other(s) in family (or care) sexually abused</p> <ol style="list-style-type: none"> 1. Yes 2. No 3. Suspect it 	<p>•Witnessed domestic/other physical abuse in childhood</p> <ol style="list-style-type: none"> 1. Yes 2. No 	<p>•Previous psychology/psychiatry contact in childhood</p> <ol style="list-style-type: none"> 1. Yes 2. No
--	--	--	---

• Childhood disturbances/
traumas (circle worst only)

1. Bullied
2. Being a bully
3. Friendship difficulties
4. Miserable a lot
5. Stealing/property damage
6. Running away
7. Deliberate self harm
8. Aggression
9. Suicide attempt(s)
10. None mentioned
11. Behaviour probs

12. Sexual offences against
others

13. Severe anxiety
14. Bed wetting
15. Witnessed fatality
16. Alcohol/drugs

• Two or more of previous

State number

• Psychology/Psychiatry
contact as an adult

1. Yes
2. No

• Psychological problems
self-reported (res time of
offence)

1. Anxiety
2. Depression
3. Drug misuse
4. Alcohol problems
5. None mentioned
6. Sexual probs/identity/
paraphilias/anxiety/
physical probs.
7. Alcohol/drugs
8. More than 1 of above

• Previous Convictions

1. None
2. sexual (child)
3. Sexual (adult)
4. violent
5. Property/acquisitive
6. Minor (e.g. driving)
7. Lots mixed (not sex)
8. sex and violence (adult
and child)
9. Lots mixed (including
sexual)

• Number of previous
convictions

State number

- or
96. Lots (some sexual)
 97. Lots (non sexual)
 98. Lots (all sexual)

• General aggressive
behaviour

1. None
2. to partner
3. To child (other than victim)
4. To child (victim)
5. To objects
6. to others (unrelated/+/
related)
7. More than 1 of above

• Number of previous
custodial sentences

State number

- or
97. Yes, but unspecified no.

• Previous treatment for
offending behaviour

1. none
2. Probation (sexual)
3. Probation (aggression)
4. Psychology (sexual)
5. Psychology (aggression)
6. Substance misuse specialist
7. Other (prison, bail hostel
etc....)
8. Family work
9. Psychiatric hospital

• Number of unconvicted
allegations (sexual)

State number

- or
98. Lots

• Victims of unconvicted
allegations (sexual)

1. Male (child) related
2. Female " "
3. Male " acquaintance
4. Female " "
5. Male " stranger
6. Female " "
7. Adult male
8. Adult female
9. None
10. Female (child) mixed rels
11. M/F child mixed rels
12. Female child/adult " "
13. M/F child related

- Index offence 1 (most serious)
1. Rape
 2. USI
 3. Buggery
 4. Indecent assault
 5. Exposure
 6. Gross Ind. (with a child)
 7. GBH/ABH
 8. Attempted buggery
 9. Not applicable
 10. False imprisonment
 11. robbery
 12. Incest
 13. Attempted rape
 14. Kidnapping

15. Breach of probation
16. Cruelty
17. Offence remains on file
18. Criminal damage
19. Possession of indecent material
20. Took indecent photos.

- Index offence 2
1. Rape
 2. USI
 3. Buggery
 4. Indecent assault
 5. Exposure
 6. Gross Ind. (with a child)
 7. GBH/ABH
 8. Attempted buggery
 9. Not applicable
 10. False imprisonment
 11. robbery
 12. Incest
 13. Attempted rape
 14. Kidnapping

15. Breach of probation
16. Cruelty
17. Offence remains on file
18. Criminal damage
19. Possession of indecent material
20. Took indecent photo's.

- Index offence 3
1. Rape
 2. USI
 3. Buggery
 4. Indecent assault
 5. Exposure
 6. Gross Ind. (with a child)
 7. GBH/ABH
 8. Attempted buggery
 9. Not applicable
 10. False imprisonment
 11. robbery
 12. Incest
 13. Attempted rape
 14. Kidnapping

15. Breach of probation
16. Cruelty
17. Offence remains on file
18. Criminal damage
19. Possession of indecent material
20. Took indecent photo's.

- Other index offences
- State number
- or
98. Not applicable

- Initial charge 1
1. Rape
 2. USI
 3. Buggery
 4. Indecent assault
 5. Exposure
 6. Gross Ind. (with a child)
 7. GBH/ABH
 8. Attempted buggery
 9. Not applicable
 10. False imprisonment
 11. robbery
 12. Incest
 13. Attempted rape
 14. Kidnapping

15. Breach of probation
16. Cruelty
17. Offence remains on file
18. Criminal damage
19. Possession of indecent material
20. Took indecent photo's.

- Initial charge 2
1. Rape
 2. USI
 3. Buggery
 4. Indecent assault
 5. Exposure
 6. Gross Ind. (with a child)
 7. GBH/ABH
 8. Attempted buggery
 9. Not applicable
 10. False imprisonment
 11. robbery
 12. Incest
 13. Attempted rape
 14. Kidnapping

15. Breach of probation
16. Cruelty
17. Offence remains on file
18. Criminal damage
19. Possession of indecent material
20. Took indecent photo's.

•Initial charge 3

- 1. Rape
- 2. USI
- 3. Buggery
- 4. Indecent assault
- 5. Exposure
- 6. Gross Ind. (with a child)
- 7. GBH/ABH
- 8. Attempted buggery
- 9. Not applicable
- 10. False imprisonment
- 11. robbery
- 12. Incest
- 13. Attempted rape
- 14. Kidnapping

- 15. Breach of probation
- 16. Cruelty
- 17. Offence remains on file
- 18. Criminal damage
- 19. Possession of indecent material
- 20. Took indecent photo's.

•Other charges

State number

or

98. Not applicable

•Court plea to 1st charge

- 1. Guilty
- 2. Not guilty
- 3. Not applicable

•Court plea to 2nd charge

- 1. Guilty
- 2. Not guilty
- 3. Not applicable

•Court plea to 3rd charge

- 1. Guilty
- 2. Not guilty
- 3. Not applicable

•Court plea to other charges

- 1. Guilty
- 2. Not guilty
- 3. Not applicable
- 4. Mixture of pleas

•Initial plea to 1st charge

- 1. Guilty
- 2. Not guilty
- 3. Not applicable

•Initial plea to 2nd charge

- 1. Guilty
- 2. Not guilty
- 3. Not applicable

•Initial plea to 3rd charge

- 1. Guilty
- 2. Not guilty
- 3. Not applicable

•Initial pleas to other charges

- 1. Guilty
- 2. Not guilty
- 3. Not applicable
- 4. Mixture of pleas

•Number of victims

State number

<p>• Age of victim 1 (at onset)</p> <p>State age</p> <p>or</p> <p>95. Not applicable</p> <p>96. < 13</p> <p>97. < 16</p> <p>98. > 18</p>	<p>• Age of victim 2 (at onset)</p> <p>State age</p> <p>or</p> <p>95. Not applicable</p> <p>96. < 13</p> <p>97. < 16</p> <p>98. > 18</p>	<p>• Age of victim 3 at onset)</p> <p>State age</p> <p>or</p> <p>95. Not applicable</p> <p>96. < 13</p> <p>97. < 16</p> <p>98. > 18</p>	<p>• Gender of victim(s)</p> <p>1. Female</p> <p>2. Male</p> <p>3. Some male some female</p> <p>or</p> <p>98. Not applicable</p>
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<p>• Victim(s) ethnicity</p> <p>1. Same as perpetrator</p> <p>2. Different from "</p> <p>3. Mixed ethnicity</p> <p>4. Unknown</p>	<p>• Relationship with victim 1</p> <p>1. S-F (homo)</p> <p>2. S-F (hetero)</p> <p>3. Father (homo)</p> <p>4. Father (hetero)</p> <p>5. Relative (homo)</p> <p>6. Relative (hetero)</p> <p>7. Acquaint. (homo)</p> <p>8. Acquaint (hetero)</p> <p>9. Stranger (homo)</p> <p>10. Stranger (hetero)</p> <p>11. Assumed relative (homo)</p> <p>12. " " (hetero)</p> <p>13. Not applicable</p>	<p>• Relationship with victim 2</p> <p>1. S-F (homo)</p> <p>2. S-F (hetero)</p> <p>3. Father (homo)</p> <p>4. Father (hetero)</p> <p>5. Relative (homo)</p> <p>6. Relative (hetero)</p> <p>7. Acquaint. (homo)</p> <p>8. Acquaint (hetero)</p> <p>9. Stranger (homo)</p> <p>10. Stranger (hetero)</p> <p>11. Assumed relative (homo)</p> <p>12. " " (hetero)</p> <p>13. Not applicable</p>	<p>• Relationship with victim 3</p> <p>1. S-F (homo)</p> <p>2. S-F (hetero)</p> <p>3. Father (homo)</p> <p>4. Father (hetero)</p> <p>5. Relative (homo)</p> <p>6. Relative (hetero)</p> <p>7. Acquaint. (homo)</p> <p>8. Acquaint (hetero)</p> <p>9. Stranger (homo)</p> <p>10. Stranger (hetero)</p> <p>11. Assumed relative (homo)</p> <p>12. " " (hetero)</p> <p>13. Not applicable</p>
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<p>• Relationship with other victims</p> <p>1. S-F (homo)</p> <p>2. S-F (hetero)</p> <p>3. Father (homo)</p> <p>4. Father (hetero)</p> <p>5. Relative (homo)</p> <p>6. Relative (hetero)</p> <p>7. Acquaint. (homo)</p> <p>8. Acquaint (hetero)</p> <p>9. Stranger (homo)</p> <p>10. Stranger (hetero)</p> <p>11. Assumed relative (homo)</p> <p>12. " " (hetero)</p> <p>13. Not applicable</p>	<p>• Did perpetrator act alone or with others (specify)</p> <p>1. Alone</p> <p>2. With other male</p> <p>3. With other female</p> <p>4. With spouse/partner/mother as witness or providing alibi whilst fully aware.</p>	<p>• Form of abuse with victim 1</p> <p>1. Fondled</p> <p>2. Masturbation</p> <p>3. Oral sex</p> <p>4. Attempted rape</p> <p>5. Digital penetration</p> <p>6. Full intercourse</p> <p>7. Object penetration</p> <p>8. Buggery</p> <p>9. Gross indecency</p> <p>10. Exposure</p> <p>11. Grabbed only</p> <p>12. Attempted buggery</p> <p>13. Witnessed masturbation</p> <p>14. Not applicable</p>	<p>• Form of abuse with victim 2</p> <p>1. Fondled</p> <p>2. Masturbation</p> <p>3. Oral sex</p> <p>4. Attempted rape</p> <p>5. Digital penetration</p> <p>6. Full intercourse</p> <p>7. Object penetration</p> <p>8. Buggery</p> <p>9. Gross indecency</p> <p>10. Exposure</p> <p>11. Grabbed only</p> <p>12. Attempted buggery</p> <p>13. Witnessed masturbation</p> <p>14. Not applicable</p>
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•Form of abuse with victim 3

1. Fondled
2. Masturbation
3. Oral sex
4. Attempted rape
5. Digital penetration
6. Full intercourse
7. Object penetration
8. Buggery
9. Gross indecency
10. Exposure
11. Grabbed only
12. Attempted buggery
13. Witnessed masturbation
14. Not applicable

•Form of abuse with other victims

1. Fondled
2. Masturbation
3. Oral sex
4. Attempted rape
5. Digital penetration
6. Full intercourse
7. Object penetration
8. Buggery
9. Gross indecency
10. Exposure
11. Grabbed only
12. Attempted buggery
13. Witnessed masturbation
14. Not applicable

•Duration of abuse with victim 1 (years)

State number

or

97. Not applicable

98. Few times/1 off

•Duration of abuse with victim 2 (years)

State number

or

97. Not applicable

98. Few times/ 1 off

•Duration of abuse with victim 3 (years)

State number

or

97. Not applicable

98. Few times/1 off

•Average duration of abuse with all victims (years)

State number

or

97. Not applicable

98. Few times/1 off

•Direct threats used for coercion

1. Yes
2. No
3. Not applicable

•Physical forms of coercion used

1. Yes
2. No
3. Not applicable

•Other coercion used e.g. bribes

1. Yes
2. No
3. Not applicable

•Place where abuse carried out

1. Perpetrator's home (also may be victim's home)
2. Victim's home (if different)
3. Outside
4. Inside - not home
5. Both inside and outside
6. Not applicable

•Life event triggers (immediately prior to abuse onset)

1. New baby
2. Bereavement
3. Relationship failure
4. Work changes
5. General stress
6. None
7. Breakdown
8. More than 1 of above

•Deviant fantasies (admitted to) during period of offending

1. Denied
2. Some
3. Lots/frequent

• Alcohol abuse/use during period of offending

1. None
2. Some - but not a problem
3. Lots

• Drug abuse/use during period of offending

1. None
2. Some - but not a problem
3. Lots

• Attitude to offences

1. Total denial
2. Part deny acts
3. Part deny responsibility
4. Part deny both
5. Full acceptance

• Motivation for treatment

1. none
2. Avoid prison/legal action
3. Reunite with family
4. It could happen again
5. Its a problem
6. Unclear

• Referral agent

1. Solicitor
2. Court
3. Adult psychiatry
4. Probation
5. Social services
6. Child psychiatry
7. Other (e.g. bail hostel)
8. GP
9. LD services
10. Prison psychiatry

• Legal status at time of referral

1. Remanded in custody
2. Remanded on bail
3. Sentenced - probation
4. Sentenced- awaiting parole
5. Paroled - on license
6. Informal

• Report recommendations

1. Not seen
2. SOTP
3. Suitable but perp. refused
4. Not suit for community programme (due to risk)
5. Individual work
6. Rereferred
7. Suitable but likely to get custody (re:seriousness)
9. Not suit - other services recommended (e.g..... LD)
10. Suit - but receiving treatment elsewhere

• Sentenced to community

1. Probation only
2. Probation + SOTP
3. No
4. Not applicable

• Sentenced to custody

State time (months)

or

1. Not applicable
2. No
3. Yes - but length unknown
4. Suspended

• Parole outcome

1. Not applicable
2. Parole - no treatment conditions
3. Parole refused
4. Parole with treatment conditions

• Was treatment accepted and taken up (if offered)

1. Not applicable
2. Yes - time unknown
3. Completed agreed treatment
4. DNA/refused

• Perpetrator's age when committed first sexual offence (may be age at onset of this current offence)

State age

•Physical health of the perpetrator (at time of offence)

1. Fit/not stated as problematic
2. Generally poor
3. Very bad (can't work/receiving benefits)

•Perpetrator's main or most frequently held job)

State job

•Perpetrator's job (last job - or main career)

1. driver (bus/cab/lorry etc.)
2. Painter/decorator
3. None ever/training only
4. Machine operator/factory
5. Mechanic
6. Selling/retail
7. Engineering
8. Repairs
9. Cleaning
10. Labourer
11. Security guard/doorman
12. Unemployed
13. Electronics/electrician

14. Voluntary/youth worker
15. Care work/nursing
16. Training/college
17. Computer technician
18. Waste disposal
19. Stock management
20. Forces
21. Market research

CHALLENGE PROJECT SCHEDULE

1. DEMOGRAPHIC DATA

NAME.....	SUBJECT NO.....	Dem01	<input type="checkbox"/>
DISTRICT:		Dem02	<input type="checkbox"/>
	1; 2; 3; 4; other=5		<input type="checkbox"/>
AGE.....		Dem03	<input type="checkbox"/>
MARITAL STATUS AT TIME OF OFFENCE.....		Dem04	<input type="checkbox"/>
married/cohab	=1		
div/sep	=2		
single	=3		
widowed	=4		
VULNERABILITY IN CURRENT PARTNER			
- LEARNING DIFFICULTIES		Dem05	<input type="checkbox"/>
- HISTORY PSYCHIATRIC ILLNESS		Dem06	<input type="checkbox"/>
- HISTORY CHRONIC MEDICAL ILLNESS		Dem07	<input type="checkbox"/>
- SEXUALLY ABUSED		Dem08	<input type="checkbox"/>
- PHYSICALLY ABUSED		Dem09	<input type="checkbox"/>
- PHYSICAL HANDICAP		Dem10	<input type="checkbox"/>
SOCIO-ECONOMIC STATUS:.....		Dem11	<input type="checkbox"/>
EMPLOYMENT HISTORY:.....		Dem12	<input type="checkbox"/>
regular & stable	=1		
frequently changing	=2		
often unemployed	=3		
almost none	=4		
IN EMPLOYMENT AT TIME OF OFFENCE.....		Dem13	<input type="checkbox"/>
IF SO, FOR HOW MANY YEARS?.....		Dem14	<input type="checkbox"/>
FREQUENCY OF CONTACT WITH CLOSE FAMILY.....		Dem15	<input type="checkbox"/>
none	=0		
1-2 years	=1		
1/month	=2		
>1/week	=3		
FREQUENCY OF CONTACT WITH FRIENDS.....		Dem16	<input type="checkbox"/>
none	=0		
1-2 years	=1		
1/month	=2		
>1/week	=3		
REFERRAL AGENT:.....		Dem17	<input type="checkbox"/>
solicitor	=1		
court	=2		
adult psy	=3		
probation	=4		
	soc.serv. =5		
	child psy =6		
	other =7		

LEGAL STATUS AT TIME OF REFERRAL.....	Dem
remand custody =1	paroled =4
remand bail =2	informal =5
sentenced =3	

2. BACKGROUND

PARENTS DIVORCED/SEPARATED?.....	Bac0
IF SO, AT WHAT AGE?.....	Bac0

EMOTIONALLY/PHYSICALLY NEGLECTED BY PARENTS.....	Bac0
none =0	
some =1	
a lot =2	

PHYSICALLY ABUSED?.....	Bac0
IF SO, BY WHOM?.....	Bac0
mother =1	other rel =3
father =2	acquaintance =4

AT WHAT AGE DID IT START?.....	Bac0
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WITNESSED PHYSICAL ABUSE IN THE FAMILY.....	Bac0
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SEXUALLY ABUSED?.....	Bac0
IF SO, BY WHOM?.....	Bac0
parent =1	acquaint =4
stepparent=2	stranger =5
sibling =3	other rel =6

AT WHAT AGE DID IT START.....	Bac1
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FORM OF ABUSE:	Bac1
fondled =1	digital pen =4
masturbation =2	buggery =5
oral sex =3	gross indec. =6

WAS ANYONE ELSE IN IMMEDIATE FAMILY SEXUALLY ABUSED....	Bac1
IF SO, BY WHOM?	Bac1
WHAT FORM DID IT TAKE?	Bac1

CHILDHOOD DISTURBANCE	
- BULLIED	Bac1
- BEING A BULLY	Bac1
- FRIENDSHIP DIFFICULTIES	Bac1
- MISERABLE A LOT	Bac1
- STEALING	Bac1
- RUNNING AWAY	Bac2
- DELIBERATE SELF HARM	Bac2
- AGGRESSION	Bac2

TWO OR MORE OF ABOVE.....	Bac2
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LITERATE.....	Bac2
no =0	
partially =1	
yes =2	

SCHOOLING:.....				Bac
special school	=1			
<16	=2			
<18	=3			
18+	=4			
CONTACT WITH PSYCHOLOGY/PSYCHIATRIC SERVICES AS CHILD..				Bac
CONTACT WITH PSYCHOLOGY/PSYCHIATRIC SERVICES AS ADULT..				Bac
HISTORY OF SELF HARM.....				Bac
SELF-REPORTED PSYCHOLOGICAL PROBLEMS.....				Bac
none	=0			
alcohol abuse	=1			
drug abuse	=2			
nervous break.	=3			
other	=4			
SEX PLAY WITH OTHER BOYS AS A CHILD.....				Bac
AGE OF FIRST GIRLFRIEND.....				Bac
NO. OF LONG TERM RELS (COHABITING 1+ YEARS).....				Bac
ADULT HOMOSEXUAL CONTACTS.....				Bac
CHILDREN AT TIME OF OFFENCE:				
BIOLOGICAL KIDS AT HOME				Bac
BIOLOGICAL KIDS, AWAY				Bac
STEP KIDS IN HOME				Bac
3. <u>OFFENDING BEHAVIOUR</u>				
PREVIOUS CONVICTIONS.....				Off
none	=0	violent	=3	Off
sexual (child)	=1	property	=4	Off
sexual (adult)	=2	minor	=5	
INDEX CONVICTIONS:.....				Off
rape	=1	indec ass	=4	Off
USI	=2	exposure	=5	Off
buggery	=3	gross ind	=6	
		other	=7	
NUMBER OF VICTIMS.....				Off
AGE OF VICTIMS.....				Off
				Off
VICTIM RELATIONSHIP.....				Off
step (homo)	=1	acquaint (homo)	=7	Off
step (hetero)	=2	acquaint (het)	=8	Off
father (homo)	=3	stranger (homo)	=10	
father (het)	=4	stranger (het)	=11	
relative (homo)	=5			
relative (het)	=6			

FORM OF ABUSE:.....				Off14	
fondled	=1	buggery	=5	Off15	
masturbation	=2	gross indec	=6	Off16	
oral sex	=3	intercourse	=7		
digital pen	=4				
DURATION OF ABUSE (months).....				Off17	
DIRECT VERBAL THREATS:.....				Off18	
PHYSICAL COERCION:.....				Off19	
BRIBES:.....				Off20	
GENERAL AGGRESSION.....				Off21	
none	=0	to child	=2	Off22	
to partner	=1	to objects	=3	Off23	
LOCATION OF ABUSE:.....				Off24	
home	=1				
outside	=2				
both	=3				
UNCONVICTED ALLEGATIONS:.....				Off25	
NUMBER OF VICTIMS.....				Off26	
AGE OF VICTIMS.....				Off27	
				Off28	
				Off29	
VICTIM RELATIONSHIP.....				Off30	
				Off31	
				Off32	
FORM OF ABUSE:.....				Off33	
				Off34	
				Off35	
LIFE EVENT TRIGGERS.....				Off36	
none	=0	abandoned	=3	Off37	
sexual probs	=1	redundancy	=4	Off38	
marital disc.	=2	bereavement	=5		
GENERAL PORNOGRAPHY USE.....				Off39	
denied	=0				
adult	=1				
child	=2				
both	=3				
DEVIANT FANTASIES DURING PERIOD OF OFFENDING.....				Off40	
denied	=0				
some	=1				
frequent	=2				

SUBSTANCE ABUSE AT TIME OF OFFENDING..... Off41 ☐
none =0 heavy drug =3 Off42 ☐
moderate drug =1 heavy alcohol =4
moderate alcohol =2

4. ATTITUDES

CURRENT DENIAL..... Att1 ☐
total denial =0
partial denial of acts =1
partial denial of responsib =2
both =3
full acceptance =4

PREVIOUS TREATMENT RECEIVED..... Att2 ☐
none =1 group =4
indiv =2 group/pris=5
indiv/prison =3

MOTIVATION FOR CHALLENGE..... Att3 ☐
none =0 Att4 ☐
avoid prison =1
reunite with family =2
could happen again =3
it's a problem =4

5. OUTCOME..... Out1 ☐☐
not seen =0 indiv.work =4
challenge =1 rerefered =5
suit/not accept =2 BC supervision =6
not suit for comm. =3 recomm.ignored =7
probation only =10

IF ACCEPTED, Out2 ☐
group =1
control =2

6. TEST RESULTS - 1

ATTITUDES TO WOMEN.....	Score	Test01	
	Group (1,2,3)	Test02	
FEAR OF NEGATIVE EVALUATION.....	Score	Test03	
	Group (1,2,3)	Test04	
INTELLIGENCE.....	Score	Test05	
	Level	Test06	
(MI=1; bord=2; low=3; av=4; gd av=5; high=6)			W
HOSTILITY INVENTORY.....	Score	Test07	
	Group (1,2,3)	Test08	
PAEDOPHILE COGNITIONS.....	Score	Test09	
MULTIPHASIC SEX INVENTORY			W
social/sexual desirability.....		test10	
sexual obsessions.....		test11	
lie scale.....		test12	
cognitive distortion.....		test13	
justifications.....		test14	
treatment attitudes.....		test15	
child molest.....		test16	
fetish.....		test17	
voyeurism.....		test18	
obscene call.....		test19	
bondage.....		test20	
sado-masochism.....		test21	
sexual disfunction.....		test22	
sex knowledge.....		test23	

Interview with Judge 1.

Q. How do you reach decisions about the most appropriate sentence for different types of sexual offences?

A. Well I suppose the starting point is how serious the offence is, in addition how numerous the offences are. If it is at the bottom end of the range, perhaps one offence, not particularly serious, you may well be thinking in terms of a non custodial sentence. If on the other hand it is towards the top end of the range, numerous offences of a very serious nature, then you are almost certainly thinking in terms of a very long term of imprisonment. You are probably trying to assess the risk of reoffending, the likely seriousness of reoffending and the consequences to another victim if there are further offences; and finally, with considerable caution you would be trying to assess what the scope is for reforming that particular defendant.

Q. When you talk about 'the seriousness' of the offence, how would you assess that?

A. Well, you might have boyfriend and girlfriend: she is under sixteen, consents completely and encourages everything that happens. If it occurs with a boy say under twenty, then one might not regard it as particularly serious: it is a criminal offence because she is under the age of consent. On the other hand perhaps exactly the same thing with a very much older man and it seems to me that the age difference makes a considerable difference to the seriousness of the offence - and in those circumstances you might well be thinking of sending somebody to prison whereas with a very much younger person prison this would almost certainly be inappropriate.

Q. So the seriousness would be very much to do with the impact on the victim?

A. Yes, in part the impact on the victim, in part how the conduct is perceived by the public generally and in part the form of the conduct itself.

Q. The actual nature of the act?

A. The actual nature of the act. I think far too many people read or hear the two words 'indecent assault' and fail to appreciate that it can vary between what one might call a stolen kiss or an inappropriate rubbing on the one hand, to something that comes very close to rape or buggery at the other, so that it covers a very very wide spectrum of offences, or perhaps 'offences' is the wrong word, 'conduct' is perhaps the better word.

Q. What weighting would you give to the factors of: deterrent, rehabilitation, protection of the public or retribution, in different offences?

A. Well, if there is a serious prospect of rehabilitation and the offence is not at the top end of the scale then I think rehabilitation probably weighs pretty heavily because successful rehabilitation will avoid any repetition of the offence and may provide the best form of protection for the public.

At the other end of the scale with a confirmed child abuser the prospect of rehabilitation is very small, the prospect of deterrent is probably not very great and there you are thinking in terms of a substantial term of imprisonment to protect other potential victims.

In between, with some cases of rape for example, I suspect that deterrence does work to some extent, I think it ought to make people think, probably before they get too excited because after they have got too excited there's not much prospect of making them think. There I think you have to mark society's disapproval of that type of behaviour.

Again with a multiple rapist deterrence may have very little effect, rehabilitation very little effect and you are thinking in terms again of a long period of imprisonment in order to protect the public.

I think really the protection of the public and of other potential victims is the prime consideration and you are looking at the best way of achieving that, which is not always by a sentence of imprisonment.

Q. In many prisons, for people who are given a sentence of three years and above, they have the opportunity to take-up some form of treatment within the prison system. Would that be a factor in your sentencing? Would you try to go above that if it seemed appropriate in order that they could get treatment?

A. I think a three year sentence has got to be appropriate for the nature and gravity of the offence and it would be wrong to say that you need treatment, you've also got to have a prison sentence, therefore it must be three years because that is the only way of getting treatment. I don't think that would be a correct way to sentence. I think the Court of Appeal would say that it was wrong in principle: highly tempting though it might be.

Q. I wonder if I could go on to look at the use of psychological assessments. What sort of cases would you think that it would be appropriate to have an assessment available?

A. I think in a very large number of sexual abuse cases: particularly involving people who abuse children, because if you have got somebody who has, perhaps on the case papers, only done it once or twice - maybe just starting - in that situation you want to know what is going on in their mind. You want to know what the prospects are of reforming them with a view perhaps to justifying a non custodial sentence in order that they can have a long term of probation with a condition that they attend a sex offender treatment clinic.

With the people at the other end of the scale, in order to justify a longer than normal sentence you need to know what the risk is of reoffending; you need to make some assessment of how dangerous they are in terms of the kinds of reoffences that will occur; you need to assess what the risk is to the victim because in order to pass a longer than normal sentence you have got to be satisfied that serious harm is likely to be caused to some future victim.

So I think, really at each extreme and in the middle, you need to know what is going on in these people's minds. You may be able to make your own assessment if the case is being contested and you have heard the evidence in some detail, and you have seen the defendant in the course of the trial and in the witness box, but you have got to remember that you have no medical qualifications as a Judge, well very few Judges do, and you need to be guided by experts, you can't turn yourself into an expert.

Q. We get fewer requests for psychological reports where the sexual offence is against an adult, perhaps a rape and we get a lot more for child sexual abuse. Are there certain things in your mind that would make it more likely that you would want a psychological report? Certain things about either the offence or victim characteristics?

A. I think that I very frequently want some form of medical assessment in the great majority of sexual cases. I suppose there are. To take rape cases - they too vary very widely - you may get a couple who have been living together, the relationship is breaking down, he says "I want to" she says "I don't", he carries on and does it. Its rape. It should not happen. But I would question whether there is really any need for a psychological assessment in a case of that nature. It is very much more a question of bad manners, I should have thought, than any form of mental illness or mental instability.

On the other hand with child sex offenders, whether it is inside the family or outside the family, my experience is that they are all too frequently extremely cunning, very

patient and they will literally groom children often from a very very early age, an astonishingly early age. You hear children saying that from the age of three, four or five, a father or some close relation or friend of the family has been touching them inappropriately and it is quite clearly leading on to full intercourse at the age of perhaps seven, eight, nine, ten.

It is beginning to get a bit late sometimes if it has been a relationship that started at a very early age. And then it will go on often until the girl gets sex education at school, realises that what is going on is wrong and potentially likely to lead to pregnancy and then they will confide in a school friend, teacher or somebody like that and it all comes to light.

But what has never ceased to amaze me is the way in which the perpetrator will spend several years building up to full sexual intercourse, they don't rush into it, it is calculated, evil and they are people of astonishing cunning and patience. So you need to know as much as you possibly can about people like that before you sentence them.

Q. So actually it is very important to you to find out their background?

A. Oh, you need to know as much as you possibly can about their background. Very often they will say that they were abused in their turn when they were young, and I have had one series of cases in the autumn of last year, with one young man in particular, a victim of quite a large number of men and there was a report on him from the Tavistock Clinic which made devastating reading. He is reckoned to be suffering from Post Traumatic Stress Disorder and they are extremely concerned that he in his turn will become an abuser of children.

The other striking feature about those cases is how often the victim will say that he or she was told "this is perfectly normal", "all father's do this" or similar expressions and I have heard that said now so often, from so many different independent sources, that I have no hesitation in believing that it is true and that this is an established technique for seducing children.

Q. What aspects of the psychological reports do you find to be most or least useful to you?

A. Most important is an assessment of the risk of reoffending. Almost equally important an assessment of the prospect of any form of rehabilitation. I think very often one finds these people are quite unable to accept that what they are doing is wrong. They either plead not guilty and deny the offence throughout and continue to deny it the day they are released from prison. I don't suppose you can do anything at all for them

because the start of any form of rehabilitation must be an acceptance of, first of all, what they have done and second that what they have done is wrong.

There are others who may accept, to some extent what they have been doing but refuse to accept that what they have been doing is wrong. They will put the blame on the child in question and try and say that the child was responsible for seducing them, or at least encouraging them, gave no indication of distress or anything of that nature. Again I suspect their thought processes may be so permanently warped that there may be very little prospect of doing much for them. Some of them I suspect will try to get onto treatment programmes and may well try and con their way through a treatment programme.

Others certainly believe that the moment they are sent on a treatment programme they are cured and that that is all that is necessary. Indeed one of the people I dealt with in the autumn was on a programme, was reoffending, and he was clearly quite convinced that the fact that he had been on a programme had cured him for all time.

Q. And the least important aspects of psychological reports?

A. There is often a huge amount of family history and background, the relevance of which is not always entirely apparent. But it may be that the significance is there for the author of the report and the fault lies in not making it quite clear why it has gone in.

Q. Are there any particular parts of the background which you view as least significant? The sorts of areas that we try to cover in the background section - and I am only speaking for my own reports and for those of my department - would look at family, education, work, relationships, psychosexual, any previous psychiatric history, drug and alcohol use and previous forensic history. Are there any of those parts which you might consider less relevant?

A. No, I would have thought that within reason all of those are important. It may be that on some occasions people really put in rather too much. The other fault that sometimes occurs, perhaps understandably, is a lot of quotation from, for example, the pre-sentence report or another document that the Judge is likely to have read in any event. I suspect the temptation is to turn it into, if you like, a free-standing document, so that you can read that and there is no need to refer to anything else in order to understand it - but it is slightly annoying if you have got a huge great pile of papers and you think, I read that a few moments ago didn't I?

Q. So you would like something that was more succinct?

A. Yes.

Q. A couple of pages? What length report do you tend to receive?

A. Oh, quite often you are talking of ten to twenty pages. Bearing in mind that if you have got a list of six, eight, ten, pleas of guilty the next day, the last thing you want is pages and pages of waffle or padding. You really want to get to the heart of the thing quite quickly. Providing of course that you can do justice to the report and justice to the defendant. If there is a need to set out a lot of detail in order to reach the conclusion or to justify the conclusion, well then fair enough you have got to do that but if there is pages and pages of stuff that does not appear to provide any support for the conclusion that is eventually reached then you are left wondering why it is there.

Q. Sure. On average we would be looking to provide four to five pages....

A. That is certainly very much on the brief side of a lot of the reports I have read. I would be delighted to receive a report like that and I suspect that if you can keep it to that length it probably carries a great deal more weight, because it makes more impact.

Q. I guess, perhaps, when it comes to the summary and recommendations, that it is difficult to know whether enough background has been given to make those understandable, and that would be something for you to decide when reading it - whether or not our conclusions make sense to you?

A. I think the summary and recommendations is extremely important. Quite often I suspect the Judge will turn to that first and then go back and read the report. So that well argued summary and recommendations, particularly well argued recommendations, are very very important in a report. I mean the Judge wants to know not only what you suggest he does with that particular defendant but why you are suggesting that that is the appropriate course as opposed to something else, and in a borderline case that can make the difference.

The other thing that you need to remember is that the Judge, in a sense, has got to sell that sentence to the public. The number of times Judges get into trouble in the media for sentencing sex offences as opposed to anything else is very high, I would have thought well over half, probably more, of the occasions when a Judge is splashed all over the papers are sex offences and the sentence in sex offences.

Now, if I put somebody on probation for a sex offence I would probably do it in a case where otherwise the sentence would have been twelve months or less or perhaps up to eighteen months. And I will spend quite a lot of time, in my sentencing remarks, explaining what would happen if I gave the man twelve months; he served six; automatic release; no supervision whatsoever; no treatment in prison; therefore a real risk that he would come out worse than when he went in.

The alternative - three years probation with a sex offender treatment condition; no prospect of discharging the probation order early apart from converting it into a conditional discharge; - instead of the court having some hold over this man for twelve months we've got a hold over him for three years and therefore in the long term perhaps a better prospect of protecting the public than by six months served in prison.

Q. And so you would be very explicit about that?

A. I would go into quite a lot of detail so that if the press are minded to say, "Probation for this? Quite ridiculous!", at least after a day or two I can get a transcript and say "this is why I did it, and this is why it is not such a stupid thing to do".

Q. Would there be any occasions when you would sentence someone to probation with a community treatment order and suggest that, were the person to be back before the courts, you would hold the case personally to you?

A. I would sometimes reserve any breach of a probation order to myself. I think the bigger the risk that you think you are taking and the more clearly you spell out to the defendant "breach this order and you are going to go to prison", the plainer it is that if possible you ought to reserve the breach to yourself. You have taken the responsibility of putting him on probation so you ought to take responsibility of passing sentence if there is a breach of the order that you have made.

But there are times when it is not really a very practical proposition. I am lucky I spend a great deal of my time at ***** court, so there probably would not be much difficulty in getting somebody like that back in front of me within a reasonable time. When you get a Judge who is moving from court to court on a much more frequent basis then it may be a problem to get the defendant back, with the necessary counsel, before the same Judge.

However, I'm not saying its impossible - it just might be rather more difficult. It would probably have to be done at a different court, which means newspaper reporters from perhaps a slightly different area so less chance that the case would be reported, it means that Probation Officer's if they are going to come, may have to come from a different area, etc.

[The Researcher pointed out that half an hour had passed and Judge 1 helpfully said that he was happy to continue as long as was needed.]

- Q.** You mentioned earlier about many sexual offenders having been sexually abused themselves in the past. Clearly within a psychological assessment and report we would wish to explore their own experiences of childhood abuse. How important would you regard such information either in terms of mitigation or a reason for their current offence?
- A.** It is rather half-a-dozen of one and six of the other isn't it? Because sometimes I have heard Judges say, "you say you were abused you ought to know how awful it is" and therefore it makes this offence that much worse. On the other hand if it is perhaps abuse starting at a very early age indeed, going on for a long time, then one could say that that particular person simply has not had a fair start in life and to that extent, yes, it may be mitigation.

I think it depends very much on the circumstances, but I don't think it is likely to be terribly weighty mitigation unless it is a factor which may in due course help to achieve rehabilitation. I think one is back to the main question being "what is the best way to protect the public from further offences by this defendant?"

- Q.** Are there any areas which you would like to see included in psychological reports, that are not currently included?
- A.** I can't think off the top of my head of anything in particular that is being missed out, but perhaps I could bring in a concern that I know a number of Judges have: that defence solicitors in particular are trying to get at defence medical experts to get them to either tone down their reports if they are very damning to the defendant, or to sign reports that have in fact been rewritten for them to make them be slightly more palatable.

I think Judges, very much rely upon the medical professions' independence and expertise and we expect to be given the unvarnished and unaltered truth about a particular defendant because the consequences for all concerned of that not happening are really too awful to contemplate.

- Q.** How often would you call in a psychologist as an expert witness?
- A.** On the whole Judges don't employ their own experts. What normally happens is that the defence will ask you to either authorise legal aid for an expert or to say that if they apply to the legal aid board it would have your approval that an expert should be appointed, so that is one way that it is done.

What a Judge can do if the defendant is in custody is to ask for a Prison Medical Officer's report. If a Judge does that it is generally wise to try and send, not perhaps a list of questions, but a fairly clear indication of the purpose of the report, because otherwise you tend to get back a report that says, of the defendant, that he is fit to plead and fit for any disposal that the court may have in mind, which is not in fact particularly helpful.

So if you want a report from a Prison Medical Officer which is geared to the question of how dangerous is this man and what is the risk of reoffending etc. then you need to direct the Prison Medical Officer's mind to that particular series of questions. In some particularly serious cases the Prosecution may either of their own accord, or by persuasion of the Judge, instruct their own medical expert but the problem is that they are strapped for cash and they are very reluctant to do that even though it may be a highly desirable counterbalance to a specially chosen medical opinion for the defence. But I think until somebody makes money specifically available for Judges to do it there is not much prospect that they can do more than encourage.

Q. You have mentioned quite a lot about the risk of reoffending. Clearly we would try to address this likelihood as we saw it, in our reports. Do you have information from your local Probation Services on how their treatment programmes are progressing and research into this area?

A. Yes. At *** we normally have a monthly meeting with the Probation service. They sometimes bring along a speaker and we would be able to get information about the sex offender project at *****, although it is fairly early days there. It has only been going for, I think, about a year to eighteen months so it is probably difficult to get a clear idea of how it is working. One of the interesting features about that is that they are taking people after they have been released from prison, so that they can be taken, generally I think, as part of a conditional release of a four years or more sentence. Occasionally - and it probably has to be on a voluntary basis - they can do it as part of supervision on a less than four year sentence.**

Q. The current debate in the media about sentencing decisions and mandatory sentencing would clearly have a major influence in the areas we have discussed. How do you feel about this topic?

A. I think that there are quite a number of people that I have sentenced who do not meet the current very strict criteria for an indeterminate sentence - in other words a life sentence - but who are undoubtedly very dangerous and very likely to reoffend once they are released.

I would probably welcome the opportunity to pass rather more life sentences, in circumstances where you would fix the period for punishment and thereafter once that had been served the Parole Board would assess the risk of reoffending on release and would only release once it was safe. But I would have thought that could be better achieved by relaxing the current conditions for a discretionary life sentence rather than imposing a mandatory life sentence for a second or subsequent offence - because that removes any degree of flexibility. - I mean, is it really necessary or desirable to pass a life sentence on someone who has committed two sexual offences which amount to bad manners rather than pure viciousness? I think it means that a lot of people who might otherwise be persuaded to plead guilty (because the evidence against them is overwhelming) will plead not guilty in the hope that they will get a perverse verdict out of a jury. - And a number of them will get a perverse verdict out of a jury, and instead of being able to sentence - perhaps not appropriately, but certainly fairly heavily - you will have somebody on the loose who will commit another offence.

So I'm very much against inflexible and automatic penalties. I have seen enough sex offences to know that the spectrum is a very very wide one indeed and alright there is probably some injustice in the way that we sentence at the moment... I'm quite sure there will be injustice if Michael Howard has his way.

The short answer is that it is a desperately difficult area, both in terms of whether people are guilty or not guilty and if they are guilty, what the appropriate sentence should be. It is not helped by very often grossly inadequate and inaccurate, reporting in the papers of what happens. I heard a very interesting snippet on the radio recently: people in the street were asked what proportion of rapists, for example, they thought would be sent to prison, and the answer was, I think somewhere in the region of 30-40%; how many did they think ought to be sent to prison - about 90%; how many are in fact sent to prison for rape - 90%. So I think public perceptions on sentencing are not necessarily borne out when you actually see what is happening.

Michael Howard's statistical basis for some of his conclusions is deeply flawed because it is based on the period immediately after the 1991 Criminal Justice Act came into force - the main purpose of which was to persuade Judges to send fewer people to prison. So the pendulum has swung from one extreme to the other in the space of 5-6 years, which is not a very satisfactory basis on which to conduct a sentencing policy.

Q. I had not actually thought of the impact on the jury.

A. I think it will undoubtedly clog the courts up because nobody on a second conviction for a sexual offence, and quite possibly nobody on a first charge of a sexual offence is going to plead guilty because of the desperate consequences if they do.

Q. Not guilty pleas would result in more victims having to appear in court?

A. Yes, that is very important, because a lot of these victims are young, they are frightened, it is an appalling ordeal, they may appear relatively composed in court and some of the children are absolutely first rate witnesses but the moment it is all over they are in a terrible state, the jury does not see it.

Q. I guess sometimes the more composed they appear will have an impact on the jury?

A. Sometimes if they are too composed the jury don't believe them, and very often for them the start of their rehabilitation is with the jury and the adults believing their evidence and believing that what they have said has actually happened.

[The Researcher thanked Judge 1 for his time and valuable participation - Judge 1's concluding comments follow]

Sadly I do tend to do quite a large number of cases of this kind at **. It does interest me, I think it is a desperately difficult area and any help that I can give I would very willingly give.**

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Interview with Judge 2.

Q. Your honour, how do you reach decisions about the most appropriate sentence for different types of sexual offences?

A. Well, my view is that in almost all sexual offences you start off with a custodial sentence. If there are then numerous mitigating factors you may be able to consider a non custodial sentence. Obviously the mitigating factors can be of various different kinds but there a psychological report may be of help to understand even more about the defendant than one would purely from an ordinary pre-sentence report.

Q. When you say with "sexual offences" that would be both offences against children and adults, would it?

A. Absolutely.

Q. Perhaps you could tell me a little bit about what would count as "mitigating factors"?

A. Well, lets think of various sorts of circumstances. If the offences have taken place a very long time ago and had only recently come to light and if the victim was, say, a member of the family - the same family as the defendant - and the victim particularly did not want the defendant to be sent to prison; those are two factors.

I suppose there are a few sexual offences that are - could just be qualified as - trivial, but I doubt if I would see them. The ones that I would be dealing with at the Crown court would be such that the victim is bound to have been very distressed irrespective of whether there was any penetration of any kind, or any physical injury or indeed any clinically psychological or psychiatric effect. I mean the ordinary sort of distress is enormous and for that reason I, as I say, start off on a custodial sentence. I think it is what the victim on the whole expects, I think it is what society expects and I think it is what all but the most naïve defendant expects.

Q. Would there be particular factors in somebody's background that might be taken into account, as well as actually what they have done in the offence?

A. They would be more likely to affect the length of the sentence rather than my decision as to whether there should be a custodial sentence or not. Another factor, of course, that would influence whether there was a custodial sentence or not is something that applies not only to sexual offences; but if the medical evidence of the defendant's current physical situation was such that he simply couldn't be sent to prison then obviously he wouldn't be. But those cases are very few and far between.

Q. And regarding your reasons for custody, would they be protection of the public, retribution, a deterrent...?

A. All three. I think perhaps more in sexual offences than in others, the public expects more retribution than in many other cases. I'm not sure about deterrents in really any cases. I think it is being caught that is the deterrent, I don't think it is the punishment that is the deterrent.

Q. And rehabilitation, would that be a factor in your sentencing?

A. No. If there is rehabilitation to be done, then it can happen in two ways. After a short sentence by going to a clinic or if it is a very long time for a very serious case - rape - then there are prisons where it can be done within prison. I know it can't be done if it is only a short sentence but if the chap is motivated, genuinely motivated, to have psychological help then he is going to do it on his release. He will be subject to aftercare; will have the assistance of a probation officer to introduce him and if he has the motivation he will do it then.

Q. We do frequently get referrals at that stage.

A. Yes, well then is the time that I would have confidence in the counselling - the psychological assistance - being of assistance and getting through to the chap. I am in many cases sceptical about their motivation when it is a choice between trotting along for counselling, however time consuming it may be or being

banged up. Nothing like the clang of the prison doors to motivate one wrongly into other choices.

Q. You mentioned that many prisons do have facilities for treatment as well and it would normally be on offer for sentences over three years. Would that ever be a factor in your decision about the length of treatment?

A. No it wouldn't. I'd decide on it first and then it is down to the chap whether he takes advantage of it in prison or whether he does it himself when he comes out. No that wouldn't in any way affect the length.

Q. In what percentage of your cases do you have access to a psychological report, or do you actually ask for one?

A. Very few. I very seldom initiate the thought of a psychological report. There I rely upon counsel and the person preparing the pre-sentence report. If counsel - during the course of their dealings with their client - or if the person preparing the pre-sentence report in the course of their dealings with the defendant find that there are alarm bells ringing - or there are particular areas of concern - then it is for them to alert me.

I don't think that these reports are needed in every case and it is impossible for me to judge - particularly on a plea of guilty when I don't see the defendant at all - whether I would be assisted by a psychological report. I could think of perhaps only one or two cases where after a trial in which the defendant has been in the witness box for say a whole day or even more and I have felt as a result of seeing him over a period of time, that this is a chap I need to know a bit more about, but those cases are few and far between.

Q. And in what proportion of your cases would the counsel have asked for psychological reports?

A. One or two percent

Q. Oh right, quite a small amount then.

A. Yes very few.

Q. Are there particular things within a psychological report that you would find most useful?

A. Well it is difficult, but motivation, remorse, previous problems either of orientation or sex drive or whatever. I suppose previous abuse of the current defendant. I suppose too... well, no this wouldn't come from the psychological report but this would come from the facts of the offence itself, but if there seemed to be particularly sadistic or strange features to it.

Q. So that might then lead you to wonder why there had not been a report?

A. Yes.

Q. What sort of length of report would you like?

A. Well that has really got to be down to the writer and their particular style. I don't think that one can..., one doesn't want a book, one wants a sufficiently full summary of the psychologist's findings to be of use to me, but I don't want details of every word taken down in clinical notes and that sort of thing.

Q. So not too much in the way of quotes?

A. Yes that's right.

Q. With regard to the summary and recommendations section, we tend to make a recommendation about sentencing. Is that something you find useful?

A. Yes it is. I'm not necessarily going to follow it, but it is useful to know whether you think that a particular course of action is a sensible thing or not.

Q. Do you find that in general the background information gives a justified reason for the recommendations offered?

A. Well it should do otherwise the recommendation is worthless. It can't just apparently be fished out of the air. It has got to be the logical conclusion of what has come before.

Q. What aspects of somebody's background would you particularly consider relevant?

[Somebody came to the door - tape turned off whilst the matter was dealt with]

Q. Which of the factors: deterrent, rehabilitation, protection of the public and punishment, would be most important to you?

A. Punishment and protection of the public.

Q. Would there be particular cases where either of the other factors might be most important?

A. Well one always hopes to achieve something in the way of rehabilitation, but as I said earlier in sexual cases I think you have to bear in mind the public's attitude to them, so the retribution element is also important.

Q. We tend to get asked for more psychological reports for sexual cases where the victims are children rather than adults, could I ask you to comment on why you think this might be so?

A. I expect because in many cases involving children, the offences are within the family and the court wants a wider view as to how the whole thing happened. There is of course a greater possibility of reoffending within the family, and so on. I think, too that although everyone is worried about sexual assaults of any kind one's natural instinct is to be more worried about people who will abuse the young unprotected innocents.

Q. So therefore the courts might request a psychological report just to get a wider picture?

A. Yes.

Q. Are there any ways that you can think of, that psychological reports might be improved for judicial use?

A. Well I don't think that is a question I can answer generally. If I had a pile of a dozen in front of me I could tell you 'that these are too long-winded, that's too woolly, that tells me nothing, this is full of a whole lot of...'. That's something I dislike, chunks of textbooks quoted, that doesn't help me at all. Or, as I said earlier, reams of quoted conversation.

I want the basic background summarised as it is understood by the psychologist. I want the conclusions drawn both from the background and from what comes out in interview and then I want a recommendation based on those conclusions. Some reports are like that already and there is no room for improvement, but there are others that are not.

Q. May I ask your views about the debate that is currently going on regarding Michael Howard's proposal for mandatory sentencing?

A. I am totally opposed to it. I think it is wholly wrong. I mean, you take for instance a chap of nineteen who joins in a particularly horrific gang rape and he gets ten years; comes out when he is twenty-four or twenty-five. He marries, has some children and when he is aged about forty-two he comes home; he discovers his wife in bed with another man. He beats up the other man and he rapes his wife. He is then put into prison on remand, the children are distressed beyond words, there is a reconciliation between him and his wife and Michael Howard says that he has got to be banged up for life - it is the second rape.

I can't see where the justice begins to be in that or where the public would want to see it happen and I know that is an extreme example but there are bound to be cases. I mean you know the wealth of different human situations that keep popping up - the criminal situations - you just keep thinking that you have seen the lot and then something else totally different appears.

Q. So it would mean that you would not have the necessary scope to deal with those particular situations.

A. Yes, he would get life, and I would think [*in the above example*] if he had to go to prison at all it should be for a year or two.

Q. So that might even be one of those cases where you wouldn't be considering a custodial sentence.

A. Might be - it would depend on the strength of the wife's feelings and the general distress to the children, and so on.

Q. On those occasions when you might sentence someone to a Probation Order, with or without a treatment condition, would you hold those cases to yourself?

A. Yes.

Q. In every circumstance?

A. So far as possible. I mean my position is that I sit here for six months a year, I do three months a year in the high court, in the family division and I do one month Mental Health Review Tribunals. Now, if a case had to come back when I was doing Mental Health Review Tribunals during the course of that month, then I would not be able to deal with it because I am travelling the country doing those and it would be extremely awkward and one wouldn't want the case to be held out until I was available.

But if it happened when I wasn't sitting here but was in The Strand, then I could always come back at nine o'clock one morning to deal with it and I would. I believe very strongly - this is not so much in sexual cases - that if I have put somebody on probation I have spelt it out to them in words of one syllable what that means and what the conditions mean and what the result of not abiding by those conditions means and I think it only right that if they fall down I am able to say: 'I remember your case. I know that I spelt it out to you in words of one syllable. I told you that if you were in breach that imprisonment would be inevitable and that is what is going to happen'. It is very difficult for me to take over someone else's case in those circumstances or vice versa.

Q. Are there many times in which you would see psychologists in the position of expert witness?

A. Oh yes.

Q. What sort of cases would those be?

A. Well they are very few and far between once again - but it would be where I would be thinking of a very long term of imprisonment or where I was wavering between following a written recommendation for a non custodial sentence or not and where there were considerable complexities in the case - if perhaps it was not clear to me how a recommendation had been reached as a result of the earlier findings that have been summarised. It would have to be a case that I was very worried about before I would seek to have aural evidence.

Q. It seems that generally both for a report or for a psychologist as an expert witness, for you, their role relates to providing information about any mitigating factors around their offence.

A. Yes

Q. So generally there is sufficient information coming in from other sources regarding the offence itself?

A. That's right, yes. Well as far as the offence itself is concerned, if there is a plea of 'not guilty' you obviously hear everything about the offence itself. If there is a plea of 'guilty' and there are nevertheless facts that defending counsel felt should be explored by a psychologist, then I would always... or indeed if he was wanting to know really how to advise his client on a plea and if he sought leave to obtain Legal Aid for a psychological report... I would always give it. But it is not something that one wants just to introduce willy nilly in every case.

Q. Are there any other reasons that you would have contact with psychologists, perhaps for presentations, finding out about research into outcome studies for those on probation and/or treatment orders, or perhaps that is undertaken through the Probation Service.

A. No, I think one gets that on the whole through the Probation Service.

[Interview concluded - Judge 2 was thanked. She requested a copy of the completed dissertation].

END

Interview with Judge 3.

Q. How do you reach decisions about the most appropriate sentence for different types of sexual offences?

A. Well, what one looks at first of all are the facts of the case. Cases differ enormously in seriousness and that's true in sexual offences as it is in other types of offence. The facts of the case, of course, include what the defendant does, what his attitude towards his offence is demonstrated to be and what the effects on the victim or sometimes the victim's family and friends might be; whether there was incitement or encouragement or provocation from the victim or from any other source. So that's the first thing one looks at: the facts of the case.

Secondly one looks at the defendant's previous history and his background; his age his family circumstances and any problems of a psychological or psychiatric or neurotic kind or any other family or personal or business problems that he may have had. I think that probably covers most things, but there will be, in some cases, other factors that may arise so one looks at all that.

An important consideration, more in sexual offences perhaps than in other types - is what his attitude has been since, towards his offence and towards his victim. As you will know, many criminals deceive themselves as much as they deceive other people and that's not simply in sexual offences. But sexual offenders - as I'm sure you know - very many of them convince themselves that what they have done is not all that serious. The victim isn't really a victim but is someone who rather enjoys it (which actually, on occasions, is the case) but on many more occasions is not the case and he blinds himself to the effects, or possible effects on the victim.

...And if a man shows in his attitude that he realises first of all that he has got a problem: he realises his offending behaviour caused distress certainly to the victim and his or her family way beyond what he expected then he has taken the first step towards rehabilitation and reformation and that's always something that counts. One isn't supposed to - and one tries not to - sentence people because of their pleas of not guilty but it must be almost always quite considerable mitigation that he's pleaded guilty in a sexual case because most sexual offences except for the most trivial lead to imprisonment and imprisonment for sexual offenders is much more difficult than for other people.

One also has to bear in mind, particularly where children are concerned as victims, the effect on the relatives and friends and sometimes neighbours of the victims and the victims family. You cannot divorce the case from the surrounding world and if courts are perceived not to be dealing sufficiently severely with offences that cause great

outrage to people then the danger is that people will take the law into their own hands with all the fearsome consequences that can have, ending up with some perfectly innocent people / person being murdered by outraged people. I had to deal with a case last week where something very nearly resulted in a - it wasn't a sex offence, it was a young man suspected of robbing old ladies - but it was an offence that gave rise to public outrage and you don't have to be a judge very long before you come across some case where people have been tempted to take the law into their own hands because of that sort of feeling. I wouldn't suggest that it's anything like a major problem in this country although it may be increasing particularly in view of it being the sort of thing the press likes to pick up in certain circumstances. But I think those are the considerations that one has in mind in passing sentence on sex offenders and to an extent upon other types of offence.

Q. You mentioned that imprisonment had many more difficulties for sexual offenders. What did you mean by that, exactly?

A. Well, sex offenders, popularly known as 'Nonces' in the prison system, are despised and looked down on by other prisoners, I often think because other prisoners like somebody else that they can despise. They're pretty near the bottom of the pile themselves but if they can say at least "I don't do that sort of thing. I'm not an f-ing nonce": they get some sort of satisfaction out of it.

But of course prisoners in for burglaries or robberies or frauds or things like that may share the same feelings of revulsion as other people do towards sex offenders particularly offenders towards young children. And they're kept in a special wing of the prisons where they are - or a special part of the wing in some cases - and the only other people that are kept there are other vulnerable prisoners like grasses and informants. And I've even known instances where a man charged either with a sex offence or being an informant has been violently assaulted by somebody else in the special wing in which such people are kept and they are subject to restrictions on their movements because of the need to keep them apart from people who might attack them. And they are sometimes, I fear, subjected to unfair treatment because of their offences, from prison staff - although I believe the prison authorities are very sensible and conscious of this danger and do their best to avoid it.

Q. You mentioned about the seriousness of cases. I wonder if you could give me a few examples of what factors you would regard as more serious and what factors as less serious in sexual offence?

A. Well, the degree of physical violence used obviously can make an offence more or less serious, but I think it's probably a male myth that that's the most important factor. I mean, the degree of the intrusive, invasiveness of the conduct particularly in relation to

women or girls is very important because the girl or woman will feel defiled and degraded and abused and put down in her nature and personality as a woman and that's an important factor.

This is not entirely absent where the victim is male. I have seen a grown man aged twenty-two living in a stable relationship with a young woman reduced to tears when giving evidence in court about what his step-father did to him when he was a young teenager, years before.

On the other hand its much more common for males to be able to shrug it off. I remember a case in which a man was charged with indecently assaulting some of his daughters, sons and a step-daughter and step-son in a later marriage - it all came out years later. And one of the sons of his first marriage in cross-examination was asked, "Why didn't you complain about it at the time?" And the reply came: "It was no big deal. To tell you the truth, I rather enjoyed it." Now that reaction is much less likely with girls or women unless of course, there has been something of a relationship or a courtship and it doesn't always happen with men.

But I think the second factor which you consider is the effect - not really the physical effect, but the psychological emotional effect or potential effect on the victim and that can make an offence much more serious. I mean, conduct which is short of rape but which involves intimate touching or fondling can be extremely degrading. And another factor is this: that an indecent assault - and again this is something not always perceived by men - but an indecent assault can be very terrifying because the offender may have no worse intention than slipping his hand up the girls' skirt or squeezing her bottom, but she doesn't know that, particularly if there aren't people about and the man does tend to select the times and places when there isn't an audience. And she doesn't know whether this is just a piece of crude fondling - a coarse overture - or whether its leading up to rape or worse, and that's the factor that must make it more serious in my view.

The age and the maturity of the victim is, of course, important because the younger you are, the harder it is to understand and be able to cope with it. With young children also it can become more serious because if its done by somebody who's a loved and respected member of the family (and sadly it more often is than not) there is a great deal of confusion in the mind of the child who knows and feels that somehow this is wrong and she doesn't want it and yet Daddy or big brother or uncle Tom or whoever is doing it. Her inclination is to comply with his wishes and then she may have many fears that come into her mind: guilt for having allowed it to happen, often when by any objective standard there is no guilt deserved: a fear of being disbelieved and so on and so forth. So all these factors combine to make a case more or less serious.

Q. And in terms of mitigation for the sentence, what factors in somebody's background would you take into consideration if any? Abuse? or other things one might pick up in a psychological report?

A. Well, I think, first of all his own age is immaterial. A grown mature man may not fully understand how a girl is likely to feel. Well, alright, if he's a grown, mature man, he may not fully understand, but he knows the wrongness of it and that's that. But a young lad, perhaps having just reached puberty may have a much lower appreciation of the seriousness of what he is doing - maybe just a bit of experimentation, or game playing so far as he is concerned. To some extent. So that's a factor.

I'm not quite sure how big a mitigating factor is the fact that he as a child was subjected to the same sort of conduct. I am sometimes, perhaps wrongly, sceptical about these claims. I think some people think it sounds good, but if somebody was abused as a child, to me, never having been abused as a child, thank God, I find it difficult to understand why that doesn't make him less ready to do it rather than more ready. So I'm not sure about what has happened to him in the past.

Tremendous strains on a person, especially if, but not exclusively, if it leads to drink or drug taking will lower inhibitions and lead to misconduct. That, strictly speaking I wouldn't regard as mitigation, indeed, we are told by the Court of Appeal we shouldn't. But it does provide an explanation. And if that is combined with a realisation "why I committed this sort of thing": "why I behaved in this way" - whether it's being unable to cope with the stresses of life followed by drink or drug-taking, or both, or without that factor, then "now I realise what I must do", well, that I would regard, it's the readiness to meet the problem within himself, so to speak, rather than the problem itself, that is the mitigation.

Q. What weighting would you give to the following four factors: deterrent, rehabilitation, protection of the public or retribution, when considering sex offenders?

A. Well, retribution is a strong word, I suspect, for punishment and I (having given a lot of thought to these things, not only in relation to sex offenders, over many years) believe that the primary object of a sentence is to punish. It isn't to rehabilitate, it isn't to deter, both of which are much less certainly attainable objectives, but it is to punish. And the reason I say that is this: with almost all crimes the person has deliberately broken the rules of society to gain some advantage: sexual, emotional, financial, or some other advantage for himself and he has done so at the price of inflicting hurt upon other people: financial hurt, emotional, psychological hurt, often a combination of all of those things, and it seems unjust that he should get away with it without some punishment and that is the first consideration.

The young man who drinks too much drives off in a fast car filled with young women, collides with a tree and kills half of them, is never never, never going to do that offence again, he doesn't need to be deterred, but in a way if he is half decent the fact that he has the disgrace and the shame and the restriction of being sent to prison is a step towards rehabilitation and I take the view that deterrence is a bit of a myth.

A large proportion of offenders, leaving sex offenders aside for the moment, a large proportion of offenders will never offend again. An even greater proportion will perhaps only offend once more. A small proportion of offenders, some people say it is 20% or 25% (I don't know what these figures are based on) will go on offending again and again and what is necessary in their case is not deterrence because they will never be deterred. It is to change their attitude and whether it is just to send them to prison or whether it is sufficient to impose some other form of community penalty the important thing is what you do to them to change their attitude towards themselves and their victims.

Very often - very often there is a feeling particularly with property crimes that 'well I'm no good for anything else'. Their attitude towards other people "doesn't matter the kid rather enjoyed it"; "making a fuss over nothing"; "oh they have got plenty of insurance the insurance company will pay for the loss that I have inflicted upon them", all that sort of thing... if you can change their attitude towards the victims and there are various things that are helpful in that - things they do at, for example, the probation day training centres, the things they do if drink or drugs are involved at the drug rehabilitation, the anger clinics and so on and so forth - I know that in prison unless you get a nice long sentence the chances of any of these things are much reduced but in theory they aren't. I mean in theory these things could be done in custody and one wishes more were done and certainly before release on licence, arrangements can be made for that sort of thing. So I think that rehabilitation, yes if you can take some course which is more likely to lead to the rehabilitation of the offender then you will want to take that course, but you mustn't do so in such a way that you pass a sentence that is unjustly low for the seriousness of his offence.

This is where I think courts get into trouble with the public or public perception. People feel that it is unjust and I think, rightly, feel it is unjust when somebody who has committed a serious offence which has caused serious hurt to people - because the judge is presented with a report which shows most convincingly that a course in a residential drug rehabilitation centre (which is not a soft option) or some other remedial course - is the most likely to rehabilitate the offender.

So rehabilitation is important but it comes second to just punishment. Deterrents are important but I think it is largely an illusion, there are a relatively small number of people who are deterred, not by the thought that they might get five years instead of three years but, I would have thought perhaps, if they might get fifteen years instead of three years. I have come across that amongst professional criminals. But deterrence I

think is a bit of an illusion. And the other one 'protecting the public' is simply the expression used when they can't think of anything else to say to justify what they are doing - I think it is pure nonsense. The public are protected of course while the chap is in custody, not entirely because crimes are planned and even organised from inside prisons, crimes are committed inside prisons, but very largely when he is inside and not on home leave or out doing community service the public are protected. It is not an expression I have ever used 'the public must be protected'. I sometimes say the public are entitled to feel that people who do what you do are justly punished but that is a different matter.

Q. I would like now to move on to the subject of psychological reports. In what percentage of your cases with sex offenders would you either request a report or have access to one?

A. I would always ask for a report of a Psychiatrist or Clinical Psychologist if I thought, had the suspicion, or perhaps the Probation Officer had the suspicion, or maybe sometimes the Policeman had the suspicion, that he was short of the usual allocation of marbles - and that is just a vulgar expression to cover any sort of problem from personality problems to serious psychosis. I would always ask for a report if the Defence or Probation Service suggested it, I wouldn't on my own initiative because it is a bit intrusive and almost impertinent to say I want a Psychiatrist's report.

So when it comes to sex offences therefore it means that if for one reason or another, if there isn't a report already, I am asked to defer sentence for one, postpone sentence, and I would normally do so. If Counsel for the defence puts up a half decent case for it I am not going to take the risk of not having all the information I should and surprisingly even if a report gives no indication of any Mental Health Act disposal, no indication of any form of therapy, it usually has some useful stuff in it which all helps with knowledge of the chap and his background and I think that is the same with sex offences as with others, but perhaps *a fortiori* with sex offences.

Q. We tend to find that we get more referrals for sexual offences against children than against adults. Would you care to comment as why you might think this is so?

A. Well I don't know why that is so, there is something obviously more serious in offences against children, for the reasons I have already referred to, I mean, therefore before taking drastic action there may be a stronger feeling that we need to know more about it.

Secondly paedophilia is abnormal. Although many of them like to think it isn't, it is abnormal, whereas for a man to desire sexually a woman and at least on some

occasions to make an unwelcome pass, is not abnormal. It is improper but it is not abnormal and it may be serious and moreover many women are able to cope with it without too much effect. Many many years ago, when she was a young teenage girl before she knew me, my wife was sitting in the cinema on a Saturday and some man came along and sat beside her and when the lights went down he started running his hand up the side of her bare leg and she kept on brushing it away and eventually she didn't brush it away and his hand, and no doubt his expectations, rose until he ran his hand onto the pin of her brooch which she was holding there waiting for his hand. It is cruel but it is effective. Well there was a young woman who coped with it effectively and I mean she never made any complaint to the cinema manager or to anyone else. A lot of women might be able to cope - it depends on the circumstances - there were a lot of people around so he was not going to do anything too desperate, but younger people might not. I should think those may be some of the reasons.

[The Researcher pointed out that half an hour had passed and Judge 3 helpfully said that he was happy to continue as long as was needed.]

Q. I wonder, when considering psychological reports, if there are any parts or sections of the reports that are most helpful to you?

A. Well, I suppose the kernel of it would be the analysis and the conclusions about him, sometimes about her, would be the most important, but then the background as gleaned by the Psychologist, the results of any psychometric testing, the report of what the examining Psychologist gathered about his attitude to the offence, his understanding or lack of it, his reasons, all these things which lead to the analysis or the assessment are important too.

The recommendation - even if it is an alternative or a series of alternatives - is important even though one can't always...one doesn't always feel justified in following it. I had a young man come to me some months ago - It wasn't a sex offence it involved burglaries, but drugs were involved and drugs were the motivation. I felt his offences were too serious not to send him to prison and I pointed out that he might get the opportunity in prison to take steps to get help with his drug problem and certainly he could get help before he was about to leave. And very recently I had a judgement from the Court of Appeal in which they said that in every way, upon the material I had, the sentence I passed (which was four years) was justified; they rejected all the arguments that it wasn't, but they said that I had said this upon sentencing and he had taken steps and he had made considerable progress and I don't know whether to encourage him or facilitate it better, they reduced his sentence to three years. Well now that I think is splendid, I can understand that and so what the Clinical Psychologist thinks is the best or might be the best way of preventing the offender reoffending is important even if one can't follow it to the letter then and there.

Q. Are there parts of a report that you would be least interested in, points that annoy you?

A. I may be a patient and understanding creature but I am not annoyed by any reports. There used to be a time when within some Probation reports the recommendations were so absurd that it was slightly irritating, but I don't think that happens now. People are much more conscious about how it must appear to us, how it must appear to the public, but I can't remember thinking of any Psychologist's or Psychiatric report that has managed to do that to me. We have great respect for Jackie Craissati's reports down here as you possibly know, but then of course she is very good and at the top.

Q. Are there ways that Psychological reports could be improved generally for your use?

A. I don't know, I can't think of any. I think it is a question that would be easier to answer if I had a greater knowledge of Clinical Psychology than I have. I mean, I have read many different psychologist's reports in many contexts and not just in connection with work but, I don't know, they always seem very thorough and detailed. I wouldn't like to say they would be better if they did this or did that. It's one thing that Judge 2 may be a bit more helpful on because she has a great background in family work (particularly with children) which I haven't as well as with criminal work and she also sits on Mental Health Review tribunals which I don't, so maybe if you asked her that she may be more helpful.

Q. But it seems that you are quite satisfied with the reports that you receive, there are no obvious gaps or ways that you would like to see them improved?

A. Yes. I don't myself get offended when a report, whether from a Psychologist or from anyone else, suggests a course of conduct which I am not going to take. It doesn't worry me and I don't feel offended by it. I know some judges do. Mind you, the reports in the past used to be couched in almost inflammatory language.

Q. If you sentence to Probation with or without treatment would you hold that case for yourself in case of a breach of the order?

A. No, you can't because you don't know when it is coming up. I mean it may arise in a distant part of the country (if there are distant parts of this country) and it may come up before a different Crown Court. If it comes back here and it is a case I, or another judge here has dealt with, they usually steer it in front of the judge that has dealt with

it but we simply cannot run it on the basis that it must go back. I believe in some jurisdictions, if not all, in the United States that case remains that judge's forever until he dies or retires but that can't happen here [*Information provided about the percentage of time each of the judges reside at this crown Court*].

Q. How often would you see a Psychologist as an expert witness within a sexual offence case?

A. Obviously always when it is a question of sentence or disposal. It really depends upon the issues that arise whether his evidence is relevant in a trial. I have had excellent evidence given by Gisli Gudjonsson, for whom I have a great respect as have a number of judges, I can't remember now what the issues were but the test is that the Psychologist or the Psychiatrist - they are in the same category for this purpose, has to be able to add something which the jury could not supply from their own knowledge and expertise or not so well, and not many express a personal opinion.

I remember one case (involving a Psychiatrist) in inner London when I went through his report and said 'well ABCD Yes, EFGH No, [*unclear*]. So, I think increasingly we would receive and find acceptable psychiatric and psychological reports. It is no longer necessary to say that the Clinical Psychologist or the Psychiatrist is talking about mental illness or neurosis, it is no longer strictly necessary, there are areas in which the expertise of such people is admissible for helping the jury in the trial.

Q. In terms of the risk of reoffending for people that are on treatment orders, clearly we would try and address the likelihood of reoffending in the report. Do you have information from the Probation or Forensic Psychology Services locally about how the treatment programmes are running and about reoffending rates?

A. Well, you don't have reports on how it is going unless you ask for them and we are probably rather bad at doing that. I suppose no more than a couple of times a year, if that, do I ask for follow-up reports. I suppose the assumption is that if he gets on all right I won't be told and I needn't be told and if he doesn't and he reoffends he will be brought back before me or somebody else. I don't think I have ever asked for such a report from a Psychiatrist or a Clinical Psychologist probably because once I have passed sentence, unless there is a breach of some order in which case the Probation Service will bring it back there is nothing more I can do, I am spent.

Q. You have mentioned that in general you see men and clearly that is the same for our service. I am curious as to what percentage of female sexual offenders you might see before the court?

A. I couldn't really tell you except that it is considerably less than 1%. I can only think of about two or three case - but then I have only been a judge for ten years and before that a recorder for about four years. I had a case that got a certain amount of publicity last year where I stayed the proceedings for abuse of process and there were reasons: there had been very long delay and the delay, I was persuaded by Counsel, was such as to make it difficult now for the Defence to present their case adequately and to back it up possibly with other evidence. You know, her recollection is that on such occasions she went straight home at such and such a time, well she may be mistaken after this length of time, there may have been people who could have backed her up if she had been accused within weeks or even months of this happening, but now it was well after ten years. It was alleged that she had a penchant for fondling the genitals of fourteen year old boys most of whom seemed to come, so far as one could gather, under the 'I quite liked it' category [*Case details followed but will not be reported here because the case was never tried*]. Then there was a woman who allegedly indecently assaulted a young girl but she was found not guilty by the jury and I can't remember the third one, but there were only about two or three so it is significantly less. I don't know whether that means that there are that many fewer female paedophiles or whether male paedophiles are reported against more often, I wouldn't know. But as it presents to me well over 99% of people accused of indecent assault on a child are men.

Q. I wonder if you could comment on Michael Howard's white paper, about the sentencing of sexual offenders, for example his proposal that second-time rapists should get life.

A. I think that that is wrong. I think that if the person has committed two rapes a life sentence is very likely to be right. But circumstances differ so much and I mean there might be a rape committed by a young man when he was seventeen, shall we say, on a silly young girl who encourages him because she is immature and silly and she then says 'no' and he goes on and then twenty-five years later he rapes someone, that is a very different situation from where a man rapes a young woman, jumps out on her in a country lane, drags her into a field and rapes her and three weeks after release from prison he does precisely the same thing. I think it very wrong and it is done of course for - barefacedly for political reasons. It is very wrong to lump them together, but as I say a person who commits a second rape is very likely to get life imprisonment certainly if it is a third.

It ought to be... in my view ... I don't believe in minimum fixed sentences for anything, I don't believe in it for murder, and it in effect doesn't mean life imprisonment. It

transfers from the judiciary, in which I include Parole Boards, decisions that should be taken by them and gives them to civil servants. It's motivation is power seeking and undermining the judiciary system on the part of some civil servants and political populist posturing on the part of the Politicians, particularly Michael Howard. I can see that giving the Judge the discretion to say there are exceptional cases and there are exceptional circumstances in this case is an important exception but you can't do it in every case or every other case and you may well be forced into a decision where you pass a sentence which is unjust on the circumstances and unnecessary and undesirable.

There are cases however where it is right to say that the sentence should be for fifteen years, longer perhaps, for the crime committed but that one cannot then say that it would be safe to release him. Well so be it, but it should be for the Judge not for the legislature to decide which those cases are and to leave it then to the Judge passing the life sentence saying what, what is now called "the tariff", is and then for the Parole Board to decide when it is safe to let him out. I think in fact Michael Howard's proposals include that sort of procedure but it should be for the Judge trying the case in the first instance to say whether this is one of those cases and not for the legislature to say when a second rape is committed, what should automatically happen.

[Interview concluded - Judge 3 was thanked for his valuable time and participation].

END

Interview with Judge 4.

Q. My Lord, how do you reach decisions about the most appropriate sentence for different types of sexual offences?

A. Well, in the same way as you reach what you think is the appropriate sentence for any offence. You look at the circumstances of the crime; you look at the circumstances of the offender; you take into account whether he has contested the matter or pleaded guilty; you look at his previous record and you look at the pre-sentence reports if there are any and of course at any medical and psychiatric reports if there are any of those. And in the cases where a medical disposal is recommended - Section 37 probably coupled with a Section 41 restriction - then of course you would have one of the psychiatrist's giving evidence because you need that for a Section 41.

But unless there is some clear indication of mental abnormality in some form or other then one wouldn't have much contact with the medical profession. And in the ordinary case of sexual offences against children or indeed against anyone else you probably wouldn't have any psychological assessment or psychiatric assessment and therefore you would just sentence in accordance with the ordinary guidelines.

Or now of course, for violent and sexual offences you can pass a longer than normal sentence because usually of his record and the degree of dangerousness that he presents and as I say, apart from the cases where a medical disposal is going to be the end result what you are really looking for in the psychiatric report (if you have one), is the dangerousness aspect (how likely is he to do it again?) because if he is likely to do it again and his past record shows that he has done it on a number of occasions obviously you are going to put him out of circulation for a good deal longer than you otherwise would. What might be, shall we say for the sake of argument, an eight year sentence for a rape would become twelve or maybe even more because he is a danger to the public.

Q. At the Forensic Psychology Service in which I work, we get referrals from Probation and from the courts for all, or the majority of, sexual offences against children. We would then do a pre-sentence report for that offender. In what percentage of cases would you see a psychological report

A. I wouldn't have thought a very high percentage, even where the victim was a child. I couldn't give you a statistic, I am afraid, but in most sexual offences, and of course only a relatively small percentage involve child victims (although sadly I think it is increasing now, or maybe there are more complaints being made, I don't know, but I have to approve, in this building, the use of video recording and use of the video-link

and the number of applications I am getting is certainly increasing which would seem to indicate that there are more child cases coming up, but) it is by no means the rule that one has any form of psychiatric report.

Q. So where would you gain your information about the background to the offence, would that be primarily from within the trial?

A. Well if it is a contested matter one has it because you have heard all the evidence. But if it is a plea of guilty you have to rely on prosecuting counsel, and one will have read all the papers, but prosecuting counsel will open it and explain what the facts are to you. But there are not many pleas of guilty for this sort of case.

Q. What weighting would you give to the following factors in sentencing sexual offenders: deterrent, rehabilitation, protection of the public or retribution?

A. I'm not myself very impressed with the deterrent's argument, particularly I think in offences of violence, and I include sexual violence in that, because the real deterrents, (and the Lord Chief Justice who has just retired pointed this out), the real deterrent is the fear of getting caught not the length of sentence you are going to get if you do get caught.

Rehabilitation, yes, one very often recommends, you can do no more than that. You can't order them that during his time in prison he should receive psychiatric help. Or sometimes one will say that he would perhaps be a suitable candidate for H.M.P. Grendon Underwood, but that means a four-year-plus sentence for Grendon.

Protection of the public must be important. It may be negative but the fact remains that if you lock someone up they are not going to be interfering in any sense with the public whilst they are locked up.

Retribution. I think retribution is beginning to become too much in the forefront of the media attitude to sentencing. One of the most difficult areas of sentencing that we have is where a death has been caused by dangerous driving, where the deceased's family - I know this is off your topic a bit - but where the deceased's family will not be satisfied frankly with anything less than life imprisonment and the man in the dock, or the woman sometimes in the dock, is a person of perfectly good character, there may be no drink involved, who has done what frankly most of us have done at some time or another, taken our eyes off the road and for a moment indulged in what is undoubtedly dangerous driving and someone sadly has been killed - and to put someone like that inside for any length of time is a pretty awful thing to have to do because you are not talking about a villain you are talking about a perfectly respectable man or woman who in a momentary, or fairly momentary aberration, has killed someone. And yet the

media are howling for blood because there is this tendency nowadays, I think, that whenever there is an accident of any sort heads must roll. The concept of a sheer accident is almost gone, somebody must be to blame somewhere, but of course sometimes there is nobody to blame, but that again is not the point I was making - the point I was making was that where someone is to blame one side will demand a sentence way above the maximum allowed by law and yet the other side will say well what is the good of locking up this man for five years, he is not going to be any better when he comes out, he is full of remorse, he has got to live with the fact that he has killed someone for the rest of his life, and it is just terribly difficult and whatever you do you are wrong.

Q. You mentioned that you need more than a four year sentence for someone to receive treatment at somewhere like Grendon and it certainly seems that in order to receive treatment in other prisons you need at least a three year sentence...

A. I think that is right because they say that, what you must remember under the present remission rules - that may be changed - at the moment if it is a three year sentence it is eighteen months, and they would say that by the time we have gone through the initial processing and got them on to a psychiatric treatment there isn't long enough.

Q. Yes. Would that ever influence the length of sentence you might pass, so that someone would be able to take up that treatment opportunity?

A. I think I can remember one case where the man - I think it was probably a plea of guilty - where the man showed what I thought was genuine remorse and said "I want psychiatric help, I know I am going to prison but I want it" and I gave him probably longer than I would have done and said I strongly recommend that he goes to Grendon. I am not sure whether that really is strictly the right way to deal with it, but nobody is going to complain.

So the answer is that very occasionally one might. It wouldn't certainly be a general approach. If for example you thought the appropriate sentence was three years you wouldn't normally give four-and-a-half so that he could get psychiatric help, but in some cases one might do it.

Q. We tend to get fewer requests for psychological reports for sexual offences against adults than we do against children, I wonder if you would care to comment on why you think that might be so.

A. Well, my own rather simplistic view is that people who commit sexual offences against children, particularly young children, almost must have something wrong with them

don't you think? Whereas your ordinary rapist - I'm not sure how much of it is sexually oriented and how much pure violence and domination - well it's both, but with most rapists I don't think there is anything very much wrong with them, they are bad rather than mad.

Serial rapists, I tried one recently where it was thought that he had raped at least thirty, probably nearer one hundred women although he was tried for only I think six. There was nothing wrong with him what so ever, he was just a thoroughly evil man and it may be an old fashioned concept but I think one does come across people that are genuinely evil. I am not saying that the majority of our customers, as it were, are that. They are not. Far more are inadequates: drug addicts, alcoholics, people who just cannot control themselves and their tempers, resort to violence - the sort of road rage approach. Whenever anything happens that they don't like they are violent, but some, and you meet them occasionally in this building, you can almost feel the inclinations of sheer evil.

Q. You were talking about the distinctions between 'mad and bad' and that is one that we seem to come up again and again with in relation to sexual offenders, where they usually would not come under any psychiatric category but what they are doing is perceived as abnormal in relation to the rest of society. I wonder if you think there should be more psychological reports for those types of cases, or if you think that that would not be necessary?

A. I think if the effect of the report would be to say that this man is not suffering from a mental illness which requires a hospital order but is suffering from some form of personality disorder or psychosis short of something that needs medical treatment I don't think that would really take us very much further. Except, I suppose, that one might make the recommendation that he should receive some psychiatric help when in prison, but I don't think it would affect the length of sentence. Except as I said right at the beginning, if it indicated that he was a real danger to the public, with possibly a psychological disorder, then the sentence would be longer just to keep him out of the way.

Q. In those psychological reports that you have seen, what would you say were most helpful and least helpful about them?

A. I think least helpful, and this is not a criticism of the reports because they vary of course enormously in quality and so on, but sometimes you do get pages of life history from the fact that he had, as far as he knows - though how he knows I don't know, a normal birth and so on right through all the facets of his school career or lack of it and so on. I am bound to say that my own practice is to look first at the conclusions, then

I will go back and read the rest of it, but I want to know what the Psychiatrist or Psychologist is saying about this man, and that you will find at the end.

Q. At the end you would also find the recommendations in consideration of the assessed risk of reoffending?

A. Yes, and of course you have to take into account the Probation Officer's pre-sentence report as well because sometimes they are not the same. The Probation Officer might say there is no real risk of reoffending or the risk is minimal, the Psychiatrist may well say that it is very considerable risk, or it could be the other way round. So you would have to try and balance [unclear]. I suppose we have a certain experience, when you have been doing this job for as long as I have, but it is very much a gut feeling when sentencing, and let's face it judges will vary. I think I am probably lighter on many offences not involving direct violence than some of my colleagues. I find it difficult to get terribly worked up about banks losing money shall we say - OK it is an offence that must be dealt with but what I think is far more serious is when Tellers in banks are held up at gun-point, because of the sheer terror it induces and it doesn't matter whether it is an imitation gun or a real one.

Q. So it is the impact on the victim in the situation which is most important for you.

A. Yes, but because Judges are, contrary to popular belief, human, they are going to differ and I might give eight years for something that my colleague next door might give ten. But that I am afraid is bound to happen.

Q. I have been talking to judges in different courts around the country and clearly this one might be quite different with regard to the seriousness of the cases. Would there be situations when you might sentence someone to Probation with a community treatment order.

A. Oh yes, but not often in this building because, as you will be aware, we deal with really only very serious crime. We don't do burglaries, we don't do assaults - well minor assaults. It is really a diet of murder where the sentence is mandatory life.

Where we mostly come into contact with your profession is of course on diminished responsibility on murder trials where the defence or maybe one of the defence is diminished, and there it is quite common to have a Psychiatrist on either side bringing different opinions - and indeed why not. But I sometimes think that it is a bit hard on a jury of twelve lay people to decide which Psychiatrist they are likely to accept - but that is a different question altogether.

Q. Well actually I was going to ask you about the role of Psychologists as Expert Witnesses, how you viewed that and what circumstances you might deem them important.

A. Well like all other witnesses including experts they vary enormously, some are absolutely first rate, some are less good as witnesses - they are probably every bit as good as Psychiatrists but they may not have the experience in the witness box. There are some that I have come to know - I don't mean socially, but some who have appeared before me a number of times and I would say well, if that Doctor says this man is diminished then I reckon he is diminished but if a different Doctor says then I may be a bit more doubtful because I know that he is likely to find diminished where many of his colleagues wouldn't and so one gets a certain sort of experience.

Q. Do you have access to any research or have presentations from any Psychologists or Psychiatrists?

A. The only thing of that sort that I have had was just after Easter, I went to one of the Judicial Study Board's residential seminars which we have to go to every - it used to be five years now I think it is coming down to four now, and one of the presentations was by a Psychiatrist but I can't remember who it was and it was nobody I had ever come across before and I don't think frankly that it added to the general sort of knowledge of most of the people there but I can well believe that a presentation by someone who perhaps is better at presenting would have been very useful.

And I did once, I had forgotten this, there was a weekend seminar at Cumberland Lodge near Windsor where the people attending were Judges and psychiatrists, no one else. Judges, organised by Lord Lloyd who was one of the House Of Lords Judges, a mixture of High Court and Old Bailey and so on and there must have been half-a-dozen Psychiatrists, now that was very good. It was some years ago and I can't now remember the details but at the time I thought one had learnt quite a bit. And I would welcome I think more of that sort of thing.

Q. Certainly we have been asked by some of the Judges at Woolwich to do presentations on the Sex Offender Treatment Programme so that they can actually see what is happening to people after they have sentenced them, and how that would effect risk of offending and that sort of thing.

A. I think that is a good idea. I think there should perhaps be more of that.

Q. I'm not sure if it would be the case here but many Judges hold cases to themselves if they sentence to a Probation order so that they can follow the case up if anything were to go wrong and the offender was breached.

A. Yes, if breach proceedings take place one would normally be told, in fact the papers would come back. Or if for example someone did very well for example so that the Probation Officer was prepared to discharge the Order six months before it expired, the papers come back and one just agrees normally of course, and just says yes discharge the Order. So we are to an extent in touch with the people to whom we give community sentences to. But of course in any court, not just here, the throughput of cases is such that you can't possibly remember the facts of every one.

Q. I was thinking of that really in terms of the media and how they may jump if it is a particularly high sentence or a particularly low one, for instance if they feel that a Probation Order was wrong, then that might be a reason for Judges to reserve the case to themselves so that should anything go wrong they had spelt out their reasons quite clearly.

A. Yes I think that is probably quite wise.

Q. I wonder if you would care to comment on Michael Howard's new legislation, the White Paper concerning the sentencing of sexual offenders.

A. You are thinking of the two rapes and immediate life?

Q. Yes.

A. I can see the argument. The argument is as I understand it, that at the moment a man who commits a second rape, certainly if the first one and the second one are committed within a relatively short time of each other or the second one is shortly after his release from the sentence for the first, will get a long sentence normally but when he has done his time he is released back into the community with no particular checks - and what the Home Secretary is proposing is by using the device of a life sentence, I think this is what he really means, then the Parole Board can decide if he is still dangerous or not.

Now I can see the argument for that, but the difficulty with any sort of arbitrary system is that inevitably there will be some cases where it leads to injustice. A man is convicted of rape at the age of seventeen, it is rape but it is not the rape where he has jumped out of the bushes onto a total stranger at knife-point, but where he has not accepted his girlfriend's "No" and she means No. One wouldn't wish to sentence someone like that on the same basis that you would sentence the man who does jump

out of the bushes at night and pull a knife because, they are both rape but very different. Now this boy of seventeen who is convicted properly of rape then leads an unblemished life until he is fifty and then he goes out on a date with a girl and they both have probably rather more to drink than they should have done and she asks him back for coffee and he misreads the signals and he does it again. It is going to be awfully hard to give him life. That is the sort of difficulty because he probably is not really a danger in the sense that the stranger rapist of course is, and so...I can see the Home Secretary's line of reasoning but I think these arbitrary solutions are dangerous.

Q. Right, so it is something about having the scope to pass the sentences that you feel are most appropriate.

A. The Judges inevitably will always say leave it to us we know better than anyone else because we have seen the man and lets face it sentencing exercises on paper are one thing, sentencing the man who is facing you across the court is not the same.

I would like to see and I expect most of my colleagues would like to see the abolition of mandatory life sentence for murder. That would get rid in one stroke, of the problems of people like Sarah Thornton who can't get herself within the provocation as the law now is, but who was one suspects, it is beginning to come to light now that she wasn't the angel she made herself out to be, but she was undoubtedly ill-treated by her husband and how she stabbed him whilst he slept no one could say that that was within the provocation rules as they are at present. But if you didn't have a mandatory life sentence she could have been given, I don't know what but something very much less than life which she probably deserved, and it would get rid of those sort of cases. It would get rid of a number of hard cases where yes it is murder within the rules but you have a lot of sympathy for the person who has done the killing. One can understand it, understand why the person did the killing and therefore you, you have got to do it, but to impose a life sentence seems hard.

Q. Yes, and clearly the new legislation would have an impact for our profession as well in terms of writing reports, for which there would no longer be a need unless there were clear indications of psychiatric problems.

A. Yes, that's right.

[Interview concluded - Judge 4 was thanked for his valuable time and participation].

Interview with Judge 5.

Q. My Lord, How do you reach decisions about the most appropriate sentence for different sexual offences?

A. Well, if it is an offence of rape and the case is being contested, there is direct guidance given by the Court of Appeal in the case of Billam, and it is five years and upwards depending on how many aggravating features. If there has been a plea of guilty then you scale it down bearing in mind how strong the case was. Was he virtually obliged to plead guilty? If he wasn't, then you give the appropriate discount for the plea and then there are all sorts of variables depending on the age of the person and depending whether they were married or not. Someone who is married gets slightly less than the Billam guidelines recommend. That's for rape: indecent assault is variable. If it is indecent assault on an adult it is usually less but I have sometimes found indecent assaults to be worse than rape and I have sentenced accordingly. Of course indecent assaults often involve young kids and, of course, sometimes young kids can be raped or buggered and one case I had involved an extended family who had all conspired and got together to abuse, rape, bugger and indecently assault a whole range of kids, and so horrendous was it that I gave one of them life. I gave fifteen years, twelve years, I gave a fairly substantial sentence to somebody of seventy - those cases were all fought.

Now, male indecency, that of course is one of the things that the *(place where you work)* is interested in, isn't it? Depends. I'm terribly conscious of a decision by the Court of Appeal which I deeply resent. It was a twenty-four year old man who buggered an eleven year old, unprotected, knowing he had HIV, did it quite deliberately and he had some three or four years earlier indecently assaulted an eight year old girl and shortly before that he had indecently assaulted another girl. I gave him life and the pre-sentence report said that he presented a real risk to the public in the shape of young people and the Psychiatrist said the same. Nevertheless the Court of Appeal said that it was not an appropriate sentence for life and they imposed a sentence of seven years adding that when he did it next time he'd get life and that did not seem to me to be the appropriate way to deal with it. He gets life if you give him a period of time, which I did, before which the Parole Board (I am a member of the Parole Board) before which the Parole Board can deal with him. It seemed to me right that he deserved five years before the Parole Board dealt with him and there the Psychologist, the Psychiatrist, the Prison Officers and the Governor and the Medical Officer could all assess what sort of risk he then presented. But there you are, that was something that I deeply resent, I feel that sometimes where you get a compulsive offender involving young people that an indeterminate sentence may be a good idea.

Now the other side of the coin is when you think it is possible to not impose a custodial sentence. I have to say I don't often do that. Next question please.

Q. In crimes of sexual offences against children, particularly those sexual offences, what weighting would you give to the following factors: retribution, protection of the public, rehabilitation and deterrent?

A. Well I think, sitting as a Judge one is often terribly conscious that the family are in court and one has to reflect retribution and deterrence very often, I mean it is a difficult position being a Judge because I don't see myself as a figure of vengeance but I do see myself as performing a duty for the public and sometimes in front of the public, so I give fairly heavy weighting to retribution and deterrence.

As far as rehabilitation is concerned, fairly recently I had someone who was clearly a compulsive homosexual, he was quite old and he had already served the equivalent of an eight month sentence in custody and there was a very interesting report, both pre-sentence and psychiatric about the Osnaman Centre near Newcastle. And the effect of me giving him a three year probation order was that he had to stay at Osnaman House. So not only was he being rehabilitated but the rules of Osnaman House were far better than leaving him to the public because he had to stay there in Osnaman House and he wasn't as it were placed in a position of temptation. He had a nephew, or great nephew, who he had indecently assaulted in a lavatory in a church in which they were both performing whatever service it was. And he actually told the Police about other indecent assaults which the Police didn't know about, which seemed to me to show a genuine desire to do something. Although he couldn't actually, (and this is sometimes is a factor with very honest offenders), he couldn't see anything wrong with what he did. So if there is a chance that the offender can be put into an environment where not only can he be rehabilitated but he can be, as it were, confined then I would look at it quite seriously.

Q. You mentioned that normally you would be imposing custodial sentences for these sort of offenders and in many prisons there is treatment available only for people serving more than a three year sentence, would that be a consideration in the length of time you might sentence, whether or not they could have access to such treatment?

A. You mean an SOTP is not available for anyone under three years?

Q. I think that is the general thing, because people would normally be out in about eighteen months and they need to get settled into the prison system before treatment can happen.

A. I didn't know that was a rule.

Q. I don't think it is a firm rule, but that in general that is the length for which treatment would be considered.

A. Well, no it isn't to be quite frank, because if I think the sentence that he merits is eighteen months, I would give him eighteen months. I wouldn't give him three years so that he could be on an SOTP course. I suppose if I gave an eighteen month sentence I might think it was a spur of the moment thing, and if it is a spur of the moment thing between two adults in a public place I usually don't send anybody inside because I don't really see any point in doing so.

Q. What percentage of cases would you see psychological or psychiatric reports?

A. Nearly always.

Q. Is that in sex offender cases nearly always?

A. Nearly always. I nearly always ask for a report and quite often I am asked to delay things until I have got a report. I have certain cases which have rather haunted me - there was one - I have a feeling that the man concerned was driven to do what he did with these children not by what seemed to be a serious psychological hang-up but out of experimental reasons. I had an awful feeling that he had seen a film and I don't remember asking for a report there and nor was one volunteered, but almost invariably I ask for one. Now I find that one haunting because I can't help thinking that the films had triggered him off....

(Researcher) Leaves you wondering afterwards what it might have been about...

How wicked it was for the films to be about.

(Researcher) Sure.

Q. In the psychological reports that you have seen what would you say were the most helpful and the least helpful aspects of them?

A. Miss Duncan, I am going to disappoint you. The psychological reports that I see before sentence in court are not very helpful. Psychological reports that I see as part of a file at the Parole Board are very often helpful. What I find with Psychological reports as opposed to Psychiatric reports is that there usually is an IQ assessment, a fairly tame acceptance of what they are told and quite often an ultra-sympathetic

diagnosis. So that often a Psychological report is accompanied by an unrealistic expectation. I am terribly sorry to say that, but Psychological reports sometimes are disappointing.

- Q.** No, don't be sorry to say it because it's actually very important. One of the reasons that I am here, really, is to see how well we are doing with such reports, and if we're not doing well, to see how ought we to improve them.
- A.** How ought you to improve them? That is quite difficult, I mean Psychologists give an assessment, sometimes give an IQ assessment, and one of the things that I shall never forget was that I tried a case in front of a jury where the Defendant had been diagnosed schizophrenic. The Judge therefore sent him to a closed hospital, I can't remember which one, but within a year he had applied to be discharged because he no longer was mentally ill and he thought he had got away with it. But as he walked out of the Medical Tribunal where they had recommended that he be discharged, PC. Plod tapped him on the shoulder and he was re-arrested for perverting the course of justice by "putting it on" and I had all the original Psychiatrist's and the Psychologist giving evidence before me. I have to say that the Psychologist said "I was not conned", two of the Psychiatrists were honest enough to say "we were conned", one Psychiatrist stuck to his guns. But I remember the Psychologist - the Psychologist absolutely closed her mind to the possibility that she could have been led by the nose. So when I say "how can reports be improved?" I have this awful experience at the back of my mind which has made me very cynical.

I think what a Psychological report should say is: "this chap is extremely stupid and very suggestible" (re: the Gudjonsson work). If he is very stupid and very suggestible that is a big mitigation. If he is at the top of the range of IQ and he is a person that very much makes up his own mind and is literate, manipulative etc. the Psychological report should say so and not be manipulated itself. I think Psychologists have got to be very much on the alert. Now I have got some, I've got twelve mandatory life sentences to look at [*Judge 5 picked up the files from his desk*] and there is a psychological report in each, and as I say the Parole Board gets some good ones.

- Q.** Why do you think report quality would be different at Parole rather than Pre-sentence?
- A.** I'm not quite sure, they just seem to be more careful. I think they know...[*referring to a file*]... here you are! Ever come across [*report author's name and place of qualification*]? It runs into twenty-one pages. But still... Well, it gives life history - but well, you know the life history - so often one skips through that. Life style at the time of killing - one usually knows that. Personality and emotions - well that's quite

interesting. Mental state at interview - that's always interesting. Discussion and opinion... and so on.

I think Psychologists rather like Psychiatrists are paid by the page and the reports often contain guff like, you know, he is the fourth sibling and so on and he was born in so and so and went to school at so and so and so on. You usually get that in the pre-sentence report anyway and if not then his counsel will say it. What one really wants is the guts of the psychological assessment.

Q. Certainly, Where I work we tend to be looking at four to five pages for a report, but whether or not we are being successful in pulling the right information out, who knows?

A. That's right, that is what I mean really, four to five pages. You know, if you get twenty-one pages and find that the first ten are things that you know already, you find you lose a bit of patience.

Q. I wonder if you would care to comment on the new legislation under consideration at the moment concerning the sentencing of sexual offenders?

A. You mean the Howard proposals in the White Paper?

(Researcher) Yes.

I could short-hand that by saying that Lord Belstead's submissions from the Parole Board exactly represent my view, but you probably haven't read that.

(Researcher) I haven't no.

I think it is entirely open for any Government to impose a minimum sentence and those Judges who say it is wrong are ignoring the fact that the Government can impose a maximum sentence. The Government is there to reflect what the public (what it sees the public) concerns are. So I am much less anti the White Paper than most of my fellows. I think if that seriously represents what the public wants then the Government is entitled to impose it. It is not for the Judges to say what they will do.

But that said I find it both unrealistic and restrictive. Unrealistic in the sense that you are going to have the prisons full and there isn't room. There will be an explosion within the prison if conditions get worse. And, I think, every case is different and to do a sort of rule-of-thumb sentencing doesn't recognise that the Defendant may vary both in the nature of his offence and the sort of person that he is at the relevant time.

So having said that I think Parliament is entitled to do it, I think it should only do it after a proper debate and I think Lord Bellstead's answer to Howard's White Paper will open up the debate and I think it will alter the proposals. They are not written in stone - at the moment anyway.

Q. I understand that Judges have to be approved to work with sexual offences cases and I wondered how they obtained that approval?

A. I haven't the slightest idea. I mean I was just told I could do them. The Recorder of London, or any Senior Judge at any sentencing centre chooses the Judges that he thinks can do it. I can't say any more than that.

Q. We tend to find that we get more referrals for Psychological assessments for cases of child sexual abuse than we do for sexual offences against adults and I wonder if you might care to comment on why you think that might be the case?

A. I don't know the answer to that.

Q. You said that in most of your cases you would see a Psychological report and that there were certain cases outstanding in your mind where perhaps you would have liked to have seen one.

A. There's only the one, but where I had made up my mind that it was a piece of wickedness and it was enough to reflect that he was experimenting, I may have been wrong about that, I suppose. You know the Gudjonsson idea of suggestibility.

I suppose, I'm surprised actually that there are more referrals to the (*place where you work*) Clinic for child offences than adult offences because in a sense I have some sympathy with adult offenders. I mean if you have an adult offender who has offended against a rent boy that is one thing. If he has forcibly held down somebody and done something dreadful to him then I'd have thought he was ripe for a Psychological assessment. I suppose that I feel some sort of sympathy for a lot of the adult male cases but as far as offences against children are concerned I think it would have to be a pretty exceptional case for me to refer to the (*place where you work*), I have to be honest about it.

I was also circulated with details of a centre in Birmingham - which one would that be?

Q. Would it be Gracewell?

A. That's right, Gracewell, and I read all the stuff on the Gracewell Clinic and for a while I consciously tried to see if there were any cases which I could send to the Gracewell Clinic, but I think I only sent one. I think that, I'm not terribly sympathetic to sending people to Clinics or Centres, except in the sort of case where I feel they can be kept away and intensively rehabilitated in, not closed conditions, but restricted conditions. Now the Gracewell Clinic doesn't go in for restrictions does it?

(Researcher) I'm not sure, perhaps not.

That would put me off. There is also somewhere out beyond Richmond way, they certainly have a very good record for treating sex offenders but again they were free to go wherever they liked. Bearing in mind my duty to protect the public I didn't want to go down as one of those who: "and this is the Judge who let out this person who four minutes later did this that and the other". One has to guard against that as well.

Q. On those occasions when you would sentence to a Community Order, whether that involved treatment or not, would you hold those cases to yourself in case of a breach of that order?

A. I think in practice I don't often remember to say so, but whenever I remember to say so I say "and I keep this to myself". I suppose I only say that if it is the sort of case where I am very undecided and I am determined to come down like a ton of bricks if there is a breach.

Q. Sure, and do you always sit at this court?

A. No, I sit in ***** as well. Those are the only two places I sit.

Q. I wonder if you could tell me under what circumstances you might regard Psychologists as helpful or unhelpful as expert witnesses?

A. Well the most helpful they can be is in assessing the level of intelligence of the Defendant, assessing the level of his literacy, because people are very shy of saying that they can't read or write and so they sign things. Although Gudjonsson has turned it into a whole can of worms I would always be interested in hearing evidence about suggestibility or non-suggestibility. Let's just see the sort of thing that does crop up [*Judge 5 looked in his case files*], I always have one, so... I think anything technical about the level of a person's obsession, the Psychologist or Psychiatrist (I know they overlap) but I'd always find that helpful.

[The researcher pointed out that more than half an hour had passed, Judge 5 checked his recruitment letter for any notes that he had written on it]

Yes, well I have just about said it. What I want is for the sexual offender either to be rehabilitated and/or kept off the road, I'd prefer both.

Q. Right, so some kind of treatment that also contains the person.

A. Well usually, as I say Osnaman House seemed a classic example where they insisted on people staying in the house and if they did not come home they were in Breach of Probation and if they did not give an accurate account of what they had been doing during the day they were in trouble. I think that is about all.

Q. In the Bail and Probation hostel, local to the sex offender treatment programme that we run, people on treatment residing there would often have curfew conditions and we would certainly require that their treatment be part of a Probation Order, and they often have to reside in a certain place whether that is hostel accommodation or not.

A. That's what I mean, that sort of thing. That's right there is one in Doncaster, I remember, where restrictions are very heavily imposed on the occupants of the particular hostel.

[Interview concluded - Judge 5 was thanked for his valuable time and participation].

Paula Duncan

My Lord,

Please accept my thanks once again for the time you gave to answer my questions concerning sentencing sexual offenders. I found the session very interesting and informative.

Please find enclosed a transcript of the interview, as promised. I would be grateful if you could read through it and highlight any passages that you would prefer me not to use in my research and return it to me in the reply-paid envelope by Monday 15th July.

Should you find the transcript acceptable as it is, you need not reply, or you can return me the transcript unaltered.

If I have heard nothing by Monday 15th July, I will assume that you are satisfied with the transcript being included as an appendix to my research and quoted within the body of the research, where relevant.

Once the research is concluded, I shall send you a copy of the research for your information.

Thank you once again for your participation.

Yours sincerely

Paula Duncan

Percentage breakdown of amalgamated categories labeled 'other' in graphs in results section

Childhood disturbances/traumas (N=117)

Bullied	25.6%
None	17.9%
Stealing	10.3%
Friendship difficulties	8.5%
Sexual offending	5.1%
Aggression	5.1%
Running away	5.1%
Deliberate self harm	4.3%
Being a bully	3.4%
Behaviour problems	3.4%
Long-term enuresis	3.4%
Miserable a lot	2.6%
suicide attempt(s)	1.7%
Severe anxiety	1.7%
Alcohol/drug abuse	0.9%
Witnessed fatality of friend	0.9%

Self-reported psychological problems as an adult (N=117)

None reported	43.6%
Alcohol problems	15.4%
Depression	14.5%
Sexual (paraphilias/identity)	9.4%
More than 1 of other categories	5.1%
Drugs and alcohol	4.3%
Anxiety	1.7%
Drug misuse	1.7%
Breakdown	1.7%
self harm/suicide attempt(s)	1.7%
Other	0.9%

Main employment/trade held by perpetrator (N=105)

Driver	19%
Security guard/bouncer	11.4%
Unemployed	8.6%
Painter/decorator	8.6%
Machine operator	5.7%
Salesman	5.7%

Cleaning	4.8%
Labourer	3.8%
Electronics	3.8%
Youth/voluntary worker	3.8%
Care work/nursing	3.8%
Armed forces	2.9%
Catering/hotel	2.9%
Training/college	2.9%
Mechanic	1.9%
Engineering	1.9%
Management	1.9%
Shopwork	1.0%
Repairs	1.0%
Computers/technician	1.0%
Waste disposal	1.0%
Market research	1.0%
Milkman	1.0%
Scientist	1.0%

Participant s' comments when returning transcripts of their interviews to the researcher

Judge 1

I have made a few minor [grammatical] changes, those aside I regret nothing.

Judge 2

Thank you for the transcript which I have left unaltered. I enjoyed our meeting and look forward to reading your dissertation. Good luck with it!

Judge 3

I return herewith your transcript of our conversation. I have made quite a number of corrections and additions but few of them are very big. I have occasionally altered what I did say where I didn't express myself well. I have altered some of the punctuation where that seemed to clarify the meaning.

You seem to me to have done very well in your transcribing.

It was a great pleasure meeting you. I hope my contribution will be of help. If I can help further I shall be happy to do so.

Judge 4

I return your transcript. I have no objection to it being used in your research paper and I look forward to seeing the paper itself.

Judge 5

I found the session very interesting and I was interested to see my replies! Self knowledge is always useful. I have highlighted two bits which are irrelevant [analogies]. Many thanks and I look forward to seeing your research.